147-136

RECORD, CASE No. 13,~~526~~ 256

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

TERM No., 201.

JARED W. DILLMAN, APPELLANT,

vs.

JOHN F. HASTINGS AND PHILIP J. REIMUND, ADMINISTRATORS OF JOSEPH HASTINGS, DECEASED.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

FILED OCTOBER 11, 1888.

256

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1 *Pleas.*

Pleas in the circuit court of the United States for the northern district of Ohio, western division, held at the United States court-rooms, in the city of Toledo, in the district aforesaid, before the Honorable Howell E. Jackson, circuit judge for the sixth circuit, and the Honorable Martin Welker, judge for the district aforesaid, on the — day of ——, being a day of the — term of said court, in the year of our Lord one thousand eight hundred and eighty-eight, and in the one hundred and twelfth year of the Independence of the United States of America.

2 JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS *et al.*, Administrators, etc., Defendants.

Be it remembered that heretofore, to wit, on the 8th day of November, A. D. 1886, there was filed in the clerk's office of said court a bill in the above-entitled cause; which bill is in the words and figures following, to wit:

Circuit Court of the United States for the Northern District of Ohio, Western Division.

To the judges of the circuit court of the United States for the northern district of Ohio:

Jared W. Dillman, a citizen of the State of Pennsylvania and a resident of the city of Philadelphia, in said State, brings this his bill against John F. Hastings and Philip J. Reimund, as administrators of the estate of Joseph Hastings, deceased, citizens of and residents in the county of Hancock, in the northern district of Ohio and in the western division thereof; and thereupon your orator complains and says the said John F. Hastings and Philip J. Reimund were, on or about the 18th day of February, A. D. 1886, duly appointed and qualified and letters of administration were granted to them
3 as administrators of the estate of Joseph Hastings, theretofore deceased, by the probate court of Hancock county, State of Ohio, and within the western division of the northern district of Ohio.

Said Joseph Hastings departed this life intestate, at said county of Hancock, where he resided, on or about the 12th day of February, 1886.

Your orator further represents that on or about the first day of March, 1875, he, the said Joseph Hastings, represented to your orator that he could loan any moneys your orator might desire to loan in Hancock county, on first-class real-estate security, at the rate of ten per cent. per annum, and would receive his compensation for placing such loans entirely from the borrower, so that your orator should be at no cost on account thereof. Your orator and said Hastings had long been on terms of intimate friendship, and relying upon his discretion and good judgment, as well as his fidelity, your orator accepted said proposal, and it was agreed between them that said

Hastings would take such money as your orator might be able to send him, and would invest it in notes secured by mortgages on real estate, so as to bring him interest at the rate of ten per cent. per annum, or at the best possible rates, and would collect the interest annually, making annual rests, and would reinvest the interest in the same way, and would account to your orator for such money and the interest and gains thereon when called on.

In pursuance of said agreement your orator, at divers times between March 1st, 1875, and May 21st, 1881, sent to said Hastings
4 divers sums of money, as is more particularly set forth in the statement hereto attached and marked "Exhibit A," and amounting in all to seven thousand four hundred dollars ($7,400); which money said Joseph Hastings, as the agent of said plaintiff, loaned out to other persons on interest at the rate of ten per cent. per annum, interest payable semi-annually, until the first day of April, A. D. 1881, and thereafter, to the time of his death, at the rate of eight per centum per annum, interest payable semi-annually; and whenever such semi-annual interest was by said Joseph Hastings collected for said plaintiff such interest was capitalized and again loaned out by said Joseph Hastings for said plaintiff, so that the money so received by said Joseph Hastings from said plaintiff, together with the accumulations thereof, was by said Joseph Hastings kept loaned out for said plaintiff so as to realize for said plaintiff ten per cent. interest, with annual rests, to the first day of April, 1881, and eight per cent. interest, with interest with annual rests, from the first day of April, 1881, to the twelfth day of February, 1886, which rates of interest were so realized and so collected on said sums by said Joseph Hastings for said plaintiff; that said sum of seven thousand four hundred dollars ($7,400) was so received by said Joseph Hastings from said plaintiff at the times and in the amounts as shown by the account thereof hereto attached and marked "Exhibit A" and made a part of this petition. Your orator believes and so avers that said money so received by said Joseph Hastings from said plaintiff, with the interest received by said Joseph
5 Hastings on loans by him made of said money, amounted at the time of his death to the sum of fifteen thousand seven hundred and sixty-six dollars and forty-eight cents ($15,766.48), as complainant verily believes, but, though often requested, said Hastings never made to your orator a full statement of the amount of interest so by him received or of principal paid, and no accounting or payment has been made, except as to seven hundred dollars ($700) returned to your orator February 2nd, 1886.

Your orator further represents and avers that he always understood and supposed that all said notes and mortgages so taken by said Hastings for your orator's money so loaned were taken, as they should have been taken, to and in the name of your orator, and — not know to the contrary until after the death of said Hastings, when he learned for the first time they were taken to and in the name of said Hastings, and the moneys of your orator were mixed and loaned with those of said Hastings; that after the appointment and qualification of said defendants as such administrators

your orator demanded of them the notes and mortgages given by others to secure his money so loaned and which notes and mortgages were then in possession of said defendants, but said defendants refused to deliver them or any of them to him, and said defendants are proceeding to collect said notes and mortgages as claims belonging to the estate of said Joseph Hastings, deceased.

And your orator further says that he has requested both of said Joseph Hastings in his life time and also of the defendants
6 since their appointment to make out a statement of the several loans so made by said Hastings of your orator's moneys, with the interest due and collected on the same, so that a settlement could be made between them and your orator might know the names of the several borrowers, the date of the several loans, and the maturity thereof, with which reasonable request said Hastings and said defendants have never complied, and these defendants have refused to give your orator their aid in making up any statement of account showing the amount collected by said Joseph Hastings and due to your orator, or to furnish him any dates therefor, though your orator requested such aid, and your orator is therefore unable to give the names of the parties so borrowing said moneys or the several amounts of said loans or their dates specifically, and he calls upon defendants to answer fully as to said several loans, the amounts so loaned, and to whom, when the same were paid and the amounts so paid, and what loans remain due and unpaid, in whose name such notes were taken, and where the same now are.

Your orator further says that on the 11th day of May, 1886, he made out and by his oath duly verified, as required by law, an account of said money and its interest and all credits thereon, so far as they were known to your orator and as far as he was able to state it, and on the 29th day of June, 1886, your orator presented said claim so verified to the said defendants and requested the said defendants *and requested the said defendants* to allow the same as a valid claim against said estate, but said defendants refused to allow
7 said claim as a valid claim against said estate, and on the 17th day of July, 1886, said defendants rejected said claim and returned the same to said plaintiff with the rejection written thereon, as shown in the copy hereto attached.

On the 29th day of July, 1886, said plaintiff, upon request of said defendants, returned said claim to said defendants for further consideration, and also delivered with said claim copies of the letters of said Joseph Hastings to said plaintiff, acknowledging the receipt of said several sums of money, and said defendants held said claim and copies of letters until the 4th day of September, 1886, and on that day again rejected said claim and returned the same and said copies of letters to said plaintiff, and said defendants still refuse to allow or pay said claim or any part thereof, and said claim remains wholly unpaid.

Your orator further says that said account as so presented contained a credit to said estate for taxes claimed to have been paid by said Hastings to the treasurer of Hancock county, levied on said moneys so loaned; but your orator avers that said claim for taxes is entirely un-

authorized and is not a valid claim or set off, and the same was so credited from a memorandum furnished your orator by said defendants and under a misunderstanding on the part of your orator of the facts, and he desires to withdraw said credits from his claim and not to be changed with them. There is now due to said plaintiff,
8 as he believes, from said defendants on said claim, the sum of fifteen thousand seven hundred and sixty-six dollars and forty-eight cents ($15,766.48), with eight per cent. interest thereon from the 12th day of February, 1886.

A copy of said claim and verification and rejection, which includes said disputed claim for taxes, is hereto attached, marked (Exhibit A), and made a part of this petition. Your orator therefore prays process of subpœna against the said John F. Hastings and Philip J. Reimund, as administrators of the estate of Joseph Hastings, deceased, and that they may, to the best and utmost of their knowledge, remembrance, information, and belief, full, true, and perfect answer make to all and singular the matter aforesaid, and especially that they be required to make a full statement of all moneys so received by said Joseph Hastings from your orator, to whom and on what terms the same was loaned by said Hastings, and a full statement of all moneys collected on account of such loans by said Hastings or by said defendants, and whether the same were loaned in the name of said Hastings, and what amount, if any, remains uncollected, and how the obligations therefor are evidenced; that an account may be taken of how much is due from the estate of said Hastings to your orator; that the amount so found due, with interest from February 12th, 1886, at the rate of eight per cent. per annum, may be ordered to be paid out of the assets of said estate; that such notes and other securities, if any, as may remain unpaid be brought into
9 court and delivered, with proper endorsements, to your orator, and for such other and further relief as equity and good conscience may require; and your orator shall ever pray, etc.

BAKER, SMITH & BAKER,
Solicitors for Complainant.

WM. BAKER, *Of Counsel.*

STATE OF OHIO, } ss:
Lucas County, }

Jared W. Dillman, plaintiff, being duly sworn by me, says that he is a citizen of the State of Pennsylvania, and that he believes the facts stated and allegations in his foregoing petition to be true.

JARED W. DILLMAN.

Subscribed in my presence and sworn to before me this 2nd day of November, A. D. 1886.

WM. R. HODGE,
Notary Public, Lucas County, O., in the Northern District of O.

EXHIBIT A.

Joseph Hastings, of Hancock county, Ohio, on or about March 10th, 1875, became the agent of Jared W. Dillman to receive from

said Dillman such money as said Dillman should, from time to time, send to said Hastings, and to loan out said money for said Dillman at the best rate of interest that said Hastings could obtain for said money, the borrowers to pay all expenses and commissions of said Hastings.

Said Hastings received large sums of money from said Dillman and loaned out said money at the rate of ten per cent. per annum, the interest payable annually, and whenever interest was collected it was capitalized and again loaned out, so that said Dillman, as he was advised by said Hastings, was realizing on all the money sent to said Hastings ten per cent., with annual rests, to the first day of April, 1881, and thereafter eight per cent., with annual rests, said Hastings retaining whatever he received above that sum in either commissions or interest as his compensation for attending to said business for said Dillman.

Said Dillman sent to said Hastings and said Hastings received from said Dillman and, as agent for said Dillman, to be so loaned out for said Dillman the following sums of money and the interest thereon, as shown by the following account of said agency, to wit:

Joseph Hastings to Jared W. Dillman, Dr.

March 10, 1875:

To cash to be loaned for said Dillman	$1,800 00
To interest at 10 per cent., annual rests, to April 1st, 1881	1,407 42

April 2, 1875:

To cash to be loaned for said Dillman	200
To interest at 10 per cent., annual rests, to April 1, 1881	154 22

June 1, 1875:

To cash to be loaned for said Dillman	200 00
To interest at 10 per cent., with annual rests, to April 1, 1881	148 95

July 10, 1875:

To cash to be loaned for said Dillman	199 00
To interest at 10 per cent., with annual rests, to April 1, 1881	144 73

Dec. 18, 1875:

To cash to be loaned for said Dillman	400 00
To interest at 10 per cent., with annual rests, to April 1, 1881	262 63

July 30, 1876:

To cash to be loaned for said Dillman	500 00
To interest at 10 per cent., with annual rests, to April 1, 1881	281 06

Nov. 17, 1876:	
To cash to be loaned for said Dillman	$500 00
To interest at 10 per cent., with annual rests, to April 1, 1881	259 30
July 4, 1877:	
To cash to be loaned for said Dillman	201 00
To interest at 10 per cent., with annual rests, to April 1, 1881	86 38
July 12, 1878:	
To cash to be loaned for said Dillman	500 00
To interest at 10 per cent., with annual rests, to April 1, 1881	180 11
May 4, 1878:	
To cash to be loaned for said Dillman	300 00
To interest at 10 per cent., with annual rests, to April 1, 1881	95 97
Oct. 8, 1878:	
To cash to be loaned for said Dillman	200 00
To interest at 10 per cent., with annual rests, to April 1, 1881	53 63
Dec. 5, 1878:	
To cash to be loaned for said Dillman	200 00
To annual interest at 10 per cent., with annual rests, to April 1, 1881	49 80
March 11, 1879:	
To cash to be loaned for said Dillman	200 00
To interest at 10 per cent., with annual rests, to April 1, 1881	43 36
May 6, 1879:	
To cash to be loaned for said Dillman	200 00
To interest at 10 per cent, with annual rests, to April 1, 1881	39 86
Aug. 20, 1879:	
To cash to be loaned for said Dillman	200 00
12 To interest at 10 per cent., with annual rests, to April 1, 1881	33 51
Oct. 9, 1879:	
To cash to be loaned for said Dillman	1,200 00
To interest at 10 per cent., with annual rests, to April 1, 1881	183 07

Dec. 25, 1879:	
To cash to be loaned for said Dillman	$100 00
To interest at 10 per cent., with annual rests, to April 1, 1881	12 93
	$10,536 93
To interest at 8 per cent., with annual rests, to Feb. 12, 1886	4,798 10
May 21, 1881:	
To cash to be loaned for said Dillman	300 00
To interest at 8 per cent., with annual rests, to Feb. 12, 1886	131 45
	$15,766 48
Nov. 28, 1876:	
By cash paid for taxes	25 44
By interest at 10 per cent., annual rests, to April 1, 1881	13 08
April 23, 1877:	
By cash paid for taxes	22 68
By interest at 10 per cent., annual rests, to April 1, 1881	10 33
Dec. 10, 1877:	
By cash paid for taxes	26 81
By interest at 10 per cent., annual rests, to April 1, 1881	9 99
May 31, 1878:	
By cash paid for taxes	24 06
By interest at 10 per cent., annual rests, to April 1, 1881	7 47
July 10, 1879:	
By cash paid for taxes	28 80
By interest at 10 per cent., annual rests, to April 1, 1881	6 83
May 29, 1879:	
By cash paid for taxes	31 80
By interest at 10 per cent., annual rests, to April 1, 1881	6 12
Dec. 8, 1879:	
13 By cash paid for taxes	29 35
By interest at 10 per cent., annual rests, to April 1, 1881	3 97
July 5, 1880:	
By cash paid for taxes	26 85
By interest at 10 per cent., annual rests, to April 1, 1881	1 98
Nov. 3, 1880:	
By cash paid for taxes	34 89
By interest at 10 per cent. to April 1, 1881	1 48
Total April 1, 1881	$312 42

By interest at 8 per cent., annual rests, to Feb. 12, 1886		134 21
July 11, 1881:		
By cash paid for taxes		33 11
By interest at 8 per cent., annual rests, to Feb. 12, 1886		14 01
Jan. 21, 1882:		
By cash paid for taxes		33 78
By interest at 8 per cent., annual rests, to Feb. 12, 1886		12 39
July 13, 1882:		
By cash paid for taxes		30 28
By interest at 8 per cent., annual rests, to Feb. 12, 1886		9 61
Nov. 29, 1882:		
By cash paid for taxes		27 30
By interest at 8 per cent., annual rests, to Feb. 12, 1886		6 63
July 19, 1883:		
By cash paid for taxes		23 80
By interest at 8 per cent., annual rests, to Feb. 12, 1886		5 19
Dec. 29, 1883:		
By cash paid for taxes		27 64
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By cash paid for taxes		24 28
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14 By cash paid for taxes		22 79
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July 6, 1885:		
By cash paid for taxes		19 21
By interest at 8 per cent., annual rests, to Feb. 12, 1886		91
Dec. 19, 1885:		
By cash paid for taxes		22 40
By interest at 8 per cent. to Feb. 12, 1886		25
Feb. 2, 1886:		
By cash sent Dillman by draft and exchange		700 00
By interest at 8 per cent. to Feb. 12, 1886		1 55
	$1,472 00	
Balance due said Dillman from said Hastings Feb. 12, 1886	$14,294 48	

Said Joseph Hastings died on the 12th day of February, 1886, and at the time of his death and since said money was on interest at 8 per cent. and the terms of the agency since April 1st, 1881, have been upon the basis of eight per cent., with annual rests, it being an eight per cent. transaction, so that the said sum of $14,294.48 will bear eight per cent. interest from February 12th, 1886, until paid.

STATE OF OHIO, *Hancock County,* } ss:

Jared W. Dillman, who usually writes his name J. Walter Dillman, or J. W. Dillman, being duly sworn, says that there is justly due him from the estate of said Joseph Hastings, deceased, the sum of $14,294.48, with eight per cent. interest thereon from the 12th day of February, 1886, upon the above and foregoing claim; that no payments have been made thereon, and that no set-offs exist against the same to the best of his knowledge and belief, and that the facts stated in the foregoing claim are true.

15 (Signed) JARED W. DILLMAN.

Subscribed in my presence and sworn to before me by said Jared W. Dillman this 11th day of May, A. D. 1886.

(Signed) H. F. BURKET,
[SEAL.] *Notary Public.*

The undersigned, on- of the administrators of the estate of Joseph Hastings, deceased, having no knowledge or information whether there is any sum due to Jared W. Dillman on the within account, and the said Dillman having refused to furnish any evidence or information upon request made that said moneys were paid over to or received by said Hastings in his lifetime, the allowance of said claim is refused.

JOHN F. HASTINGS,
Administrator of Joseph Hastings, Deceased.

And afterwards, to wit, on the 13th day of November, 1886, the following subpœna was filed in this cause in said court, viz:

THE UNITED STATES OF AMERICA, *Northern District of Ohio, Western Division,* } ss:

The President of the United States of America to the marshal of the northern district of Ohio, Greeting:

You are hereby commanded to summon John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, if they be found in your district, to be and appear in the circuit court of the United States in and for the division and
16 district aforesaid, at Toledo, on the first Monday in January next, to answer to a certain bill in chancery filed and exhibited in said court against them by Jared W. Dillman.

Hereof they are not to fail under the penalty of the law thence ensuing, and have you then and there this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States, this 8th day of November, A. D. 1886, and in the 111 year of the Independence of the United States of America.

A. J. RICKS, *Clerk*,

[SEAL.] By HALLIE W. BROWN,
Deputy Clerk.

MEMORANDUM.—The said defendants are required to enter their appearance in this suit in the clerk's office of said court, in Toledo, on or before the first Monday of December, 1886; otherwise the said bill may be taken *pro confesso*.

A. J. RICKS, *Clerk*.

Endorsed as follows:

No. 529. United States circuit court, northern district of Ohio, western division. In chancery. Jared W. Dillman *vs.* John F. Hastings *et al.* Subpœna. Returnable Dec. 6th, 1886. Rule day for appearance, Dec. 6th, 1886. Rule day for answer, Jan. 3d, 1887. Returned and filed Nov. 13, 1886. A. J. Ricks, clerk. Baker, Smith and Baker, complainant's solicitor.

17 And afterwards, on the 17th day of November, 1886, the following appearance was entered by defendants, viz:

The appearance of the defendants John F. Hastings and Philip J. Reimund, as administrators of the estate of Joseph Hastings, deceased, is this — entered in the above-entitled cause by Whitely and Bope, their attorneys.

And afterwards, on the 31st day of December, 1886, the following answer was filed in this cause, viz:

In the Circuit Court of the United States for the Northern District of Ohio, Western Division.

JARED W. DILLMAN

—

JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased. } Case Number 529.

The answer of John F. Hastings and Philip J. Reimund, as administrators of the estate of Joseph Hastings, deceased, to the bill of complaint of said Jared W. Dillman, complainant.

These respondents, saving to themselves all benefit or advantage of exceptions or otherwise that can or may be taken to complainant's said bill of complaint, for answer thereto or to so much thereof as these respondents are advised it is material or necessary for them to make answer to, answering, say: Admitting that they are administrators of the estate of Joseph Hastings, late of Hancock county, Ohio, deceased, duly appointed and qualified, and are acting as such administrators, and that said Joseph Hastings departed this life at or about the time stated in complainant's bill.

18 And these respondents, further answering, say that they do not know and have not been informed save by said complainant's said bill and cannot admit that any agreement was made or ever existed between the said complainant and the said Joseph Hastings, as stated in said complainant's bill, whereby the said Hastings was to take such money as the said complainant should send him and would invest it in notes secured by mortgages on real estate so as to bring complainant interest at the rate of ten per centum or at the best possible rates, and would collect the interest annually, making annual rests, and would reinvest the interest in the same way, and would account to complainant for such money and the interest and gains thereon when called for.

These respondents say that the said John F. is a son of the said Joseph, deceased, and the said Philip J. is a son-in-law; that during all said time from & before March 10th, A. D. 1875, hitherto and up to the time of the death of said Joseph they resided near the said Joseph and were intimate with him and had a general knowledge of his business and affairs, and they did not during all said time hear the said Joseph speak of any such agreement or arrangement with said complainant in any manner or form as is set forth in his said bill of complai*nant*; and they further say that in the conversations held with complainant after the death of said Joseph and before the time when he presented the account to them now attached to his bill of complaint he, the said complainant, did

19 not claim or assert any such agreement or any agreement with said Joseph, deceased, as he now sets forth in his said bill of complaint; that since the death of said Joseph these respondents have carefully examined all the books, papers, writings, and memoranda of the said Joseph which came into their possession as such administrators and have not found any evidence of any such arrangement or agreement as set forth by complainant in his said bill; that after the death of said Joseph and after these respondents learned that complainant was setting up some claim against the estate of said Joseph, deceased, they requested complainant to show them and allow them to inspect any original writing, letters, or papers in his possession from said Joseph having reference to his said claim; which said reasonable request the said complainant refused. Therefore these respondents upon their belief deny that any such contract, arrangement, or agreement was made or entered into between said complainant and said Joseph Hastings in any manner or form as he has in his said bill of complaint allowed; and these respondents, as such administrators and trustees, as to all of said supposed agreement material to complainant's said claim they demand full proof; and these respondents submit that said supposed agreement when found *is* set forth in said complainant's bill, so far as it requires interest to be taken and accounted for at the rate of ten per centum per annum, is illegal and void, and these respondents, as such administrators, are not in law bound by the same.

20 And these respondents, further answering, say that they do not know and have not been informed, save by complainant's bill, whether any or what sums of money were received from said

Joseph Hastings in his lifetime by complainant between the said 10th day of March, 1875, and May 21, A. D. 1881, or at any other time, or what amount was paid to said Joseph Hastings for interest on said money; that after the death of said Joseph the said complainant, at Findlay, Ohio, gave out in speeches and asserted at times that said Hastings was indebted to him in about two thousand dollars and at other times stating other sums—all, however, uncertain and indefinite, both in amount and time, and not claiming any greater sum until after respondents informed him that said Joseph had left no evidence of any kind of any such transactions with him, said complainant.

And these respondents further say that, upon information received from others and not of their own knowledge, they admit that at the death of said Hastings he had of the money of said complainant the sum of eighteen hundred and seventy-five dollars, but whether said Hastings had and held such money as a loan, a deposit, or how otherwise, these respondents are not informed. These respondents therefore, upon their belief, deny that said sum of fifteen thousand seven hundred and sixty-six dollars and forty-eight cents belonging to claimant was in the hands of said Hastings at the time of his death, or that any such sum was due from said Hastings to complainant, or that said Hastings was, at the time of his death, liable to account to complainant for any greater sum than the said sum of eighteen hundred and seventy-five dollars herein admitted; and as to any other *and as to any other* moneys, part and *pence* of said
21 complainant'- claim, these respondents, by force of the statutes, demand proof.

These respondents further say that they are not informed, save by his bill, whether said complainant ever requested said Hastings to make to him a statement of loans, interest, &c., as stated in his bill, and they cannot admit or deny said allegation; but these defendants aver that they have always since their appointment as such administrators been ready and willing to aid the said complainant in finding any sum due said Hastings to him, but the said complainant has persistently refused to show to these respondents or to allow them to inspect any original letters, vouchers, or writing which he asserts he has and which complainant claims contain the evidence of said loans and indebtedness.

And these respondents, further answering, say that they do not know and have no information upon which to found any belief whether any of the notes, mortgages, or other evidence of debts that came into their possession or within their control contained any of the money of complainant or whether any of said notes and mortgages were given for or to secure the money of complainant.

They further say that they have no knowledge or information that said Joseph Hastings in his lifetime loaned any of the money of complainant to any person or persons or in any sum or sums; do not know that any loans of complainant'- money or any interest accrued thereon was paid to said Hastings in his lifetime or to respondents since his death; do not know and have no information that any such loans are due or are unpaid; have no information and do

not know that any notes were taken by said Hastings for any money of complainant in the name of any person. If any such were taken these respondents do not know where they are.

22 And these respondents, further answering, say that upon information derived from others they believe that the said Joseph Hastings in his lifetime received from said complainant the sum of twenty-five hundred and seventy-five dollars; that of said sum said Hastings repaid to complainant the sum of seven hundred dollars, leaving with said Hastings at the time of his death the sum of eighteen hundred and seventy-five dollars and no more; do not know and have no information that any of the moneys of complainant were loaned by said Hastings to any person or persons or otherwise, or that any money has been collected on account of any loan of the said moneys by the said Hastings; do not know and have no belief that any of the money of complainant was loaned by said Hastings in his own name or in the name of complainant or how otherwise, or whether any of said moneys remain uncollected; they have no knowledge that any notes, mortgages, or other evidences were taken in the name of complainant or in the name of any other person for him.

And, for further answer in this behalf, these respondents say that as to the said items and causes of action, so far as they relate to the said sum of ten thousand five hundred and thirty-six dollars and ninety-three cents set forth in complainant's bill and purporting therein to have accrued between March 10, A. D. 1875, and December 25th, A. D. 1879, that said complainant ought not to maintain this action against them because they say that the said several claims in the said complainant's bill set forth and as herein stated as to said sum of $10,536.93 did not nor did either of the several items and causes of action accrue to said complainant at any time within six years next before the commencement of this suit.

23 These respondents say that by force of the statute in such case made and provided they are entitled to have full proof of all the matters and allegations set forth in complainant's bill, and they demand an examination and inspection of all vouchers and original letters and papers in the possession of complainant or under his control made or written upon or about the matters set forth in complainant's bill before and since M'ch 10th, A. D. 1875.

And these respondents submit that judgment may be taken against them as such administrators in favor of the said complainant for the sum of $1,875.00, with interest from Feb'y 2nd, 1886.

And now, having fully answered all the matters of said complainant's bill, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for these defendants to make answer unto and not herein and hereby well and sufficiently answered, traversed, or avoided, which if discovered they ask that they may be permitted to supply, &c.

And they pray to be dismissed with costs as to all matters excepting the said sum of $1,875.00 aforesaid, &c.

WHITELY AND BOPE,
Solicitors for Respondents,
With M. D. SHAFER, *Sec.*

THE STATE OF OHIO, } ss:
Hancock County, }

John F. Hastings and Philip J. Reimund, being duly sworn, avow and say that all the several matters and things which are set forth in the foregoing answer as from the information of others *we* each, severally and for himself, believes to be true, and all the several other matters and things in said answer set forth are true in substance and in fact.

JOHN F. HASTINGS.
PHILIP J. REIMUND.

Sworn to and subscribed before me this 18th day of December, A. D. 1886.

[SEAL.] PRESLEY E. HAY,
Clerk of Court.

24 And afterwards, on the 17th day of March, 1887, the following replication was filed, viz:

In the Circuit Court of the United States for the Northern District of Ohio, Western Division.

JOHN W. DILLMAN, Complainant,
vs.
PHILIP J. REIMUND and JOHN F. HASTINGS, Adm'rs, Defendants. } No. 529.

The replication of John W. Dillman, complainant, to the answer of John F. Hastings and Philip J. Reimund, adm'rs, Defendants.

This repliant, saving and reserving to himself all and all manner of advantages of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in his said bill he has already prayed.

BAKER, SMITH & BAKER,
Sol'rs for Complainant.

And afterwards, on the 23rd day of April, 1887, the following notice was filed, viz:

In the Circuit Court of the United States for the Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.

No. 529. In Equity. Notice.

25 The defendants herein, John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, will take notice that the complainant desires the evidence to be adduced in this cause to be taken orally before one of the examiners of the court.

JARED W. DILLMAN,
By BAKER, SMITH & BAKER,
His Solicitors.

Toledo, Ohio, April 23, 1887.

We hereby acknowledge service of the above notice by copy at Findlay, Ohio, this April 25, 1887.

WHITELY AND BOPE,
Attorneys for Defendants.

And afterwards, on the 7th day of June, 1887, the following stipulation concerning testimony was filed, viz:

Joseph Hastings, of Hancock county, Ohio, on or about March 10, 1875, became the agent of Jared W. Dillman to receive from said Dillman such money as said Dillman should from time to time send to said Hastings, and to loan out said money for said Dillman at the best rate of interest that said Hastings could obtain for said money, the borrowers to pay all expenses and commissions of said Hastings. Said Hastings received large sums of money from said Dillman and loaned out said money at the rate of ten per cent. per annum, the interest payable annually, and whenever interest was collected it was capitalized and again loaned out, so that said Dillman, as he was advised by said Hastings, was realizing on all the money sent to said Hastings ten per cent., with annual rests, to the first day of April, 1881, and thereafter eight per cent., with annual rests, said Hastings retaining whatever he received above that sum in either commissions or interest as his compensation for attending to said business for said Dillman. Said Dillman sent to said Hastings and said Hastings received from said Dillman and as agent for said Dillman to be so loaned out for said Dillman
26 the following sums of money and the interest thereon, as shown by the following account of said agency, to wit:

Joseph Hastings to Jared W. Dillman.

DR.

March	10, 1875.	To cash to be loaned for said Dillman	$1,800 00
		To interest at 10%, annual rests, to April 1, '81	1,407 42
April	2, 1875.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, annual rests, to April 1, '81	154 22
June	1, 1875.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, with annual rests, to April 1, '81	148 95
July	10, 1875.	To cash to be loaned for said Dillman	199 00
		To interest at 10%, with annual rests, to April 1, '81	144 73
Dec.	18, 1875.	To cash to be loaned for said Dillman	400 00
		To interest at 10%, with annual rests, to April 1, '81	262 63
July	30, 1876.	To cash to be loaned for said Dillman	500 00
		To interest at 10%, with annual rests, to April 1, '81	281 06
Nov.	17, 1876.	To cash to be loaned for said Dillman	500 00
		To interest at 10%, with annual rests, to April 1, '81	259 30
July	4, 1877.	To cash to be loaned for said Dillman	201 00
		To interest at 10%, with annual rests, to April 1, '81	86 38
July	12, 1878.	To cash to be loaned for said Dillman	500 00
		To interest at 10%, with annual rests, to April 1, '81	180 11
May	4, 1878.	To cash to be loaned for said Dillman	300 00
		To interest at 10%, with annual rests, to April 1, '81	95 97
Oct.	8, 1878.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, with annual rests, to April 1, '81	53 63
Dec.	5, 1878.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, with annual rests, to April 1, '81	49 80
M'ch	11, 1879.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, with annual rests, to April 1, '81	43 36
May	6, 1879.	To cash to be loaned for said Dillman	200 00
		To interest at 10%, with annual rests, to April 1, '81	39 86
August	20, 1879.	To cash to be loaned for said Dillman	200 00
27.		To interest at 10%, with annual rests, to April 1, '81	33 51

Oct.	9, 1879.	To cash to be loaned for said Dillman	$1,200 00
		To interest at 10%, with annual rests, to April 1, '81	183 07
Dec.	25, 1879.	To cash to be loaned for said Dillman	100 00
		To interest at 10%, with annual rests, to April 1, '81	12 93
		To interest at 8%, with annual rests, to Feb'y 12, '86	4,798 10
May	21, 1881.	To cash to be loaned for said Dillman	300 00
		To interest at 8%, with annual rests, to Feb'y 12, '86	131 45
			$15,766 48

Cr.

Nov.	28, '76.	By cash paid for taxes	$25 44
		By interest at 10%, annual rests, to April 1, '81	13 08
April	23, '77.	By cash paid for taxes	22 68
		By interest at 10%, annual rests, to April 1, '81	10 33
Dec.	10, '77.	By cash paid for taxes	26 81
		By interest at 10%, annual rests, to April 1, '81	9 99
May	31, '78.	By cash paid for taxes	24 06
		By interest at 10%, annual rests, to April 1, '81	7 47
Jan'y	10, '79.	By cash paid for taxes	28 80
		By interest at 10%, annual rests, to April 1, '81	6 83
May	29, '79.	By cash paid for taxes	31 80
		By interest at 10%, annual rests, to April 1, '81	6 12
Dec.	8, '79.	By cash paid for taxes	29 35
		By interest at 10%, annual rests, to April 1, '81	3 97
July	5, '80.	By cash paid for taxes	26 85
		By interest at 10%, annual rests, to April 1, '81	1 98
Nov.	3, '80.	By cash paid for taxes	34 89
		By interest at 10%, annual rests, to April 1, '81	1 48
		Total to April 1st, 1881	$312 42
		By interest at 8%, annual rests, to Feb'y 12, '86	134 21
July	11, '81.	By cash paid for taxes	33 11
		By interest at 8%, annual rests, to Feb'y 12, '86	14 01
Jan'y	21, '82.	By cash paid for taxes	33 78

28	By interest at 8 %, annual rests, to Feb'y 12, '86	$12 39	$15,766 48
July 13, '82.	By cash paid for taxes	30 28	
	By interest at 8 %, annual rests, to Feb'y 12, '86	9 61	
Nov. 29, '82.	By cash paid for taxes	27 30	
	By interest at 8 %, annual rests, to Feb'y 12, '86	6 63	
July 19, '83.	By cash paid for taxes	23 80	
	By interest at 8 %, annual rests, to Feb'y 12, '86	5 19	
Dec. 29, '83.	By cash paid for taxes	27 64	
	By interest at 8 %, annual rests, to Feb'y 12, '86	4 90	
June 26, '84.	By cash paid for taxes	24 28	
	By interest at 8 %, annual rests, to Feb'y 12, '86	3 21	
Jan'y 1, '85.	By cash paid for taxes	22 79	
	By interest at 8 %, annual rests, to Feb'y 12, '86	2 13	
July 6, '85.	By cash paid for taxes	19 21	
	By interest at 8 %, annual rests, to Feb'y 12, '86	91	
Dec. 19, '85.	By cash paid for taxes	22 40	
	By interest at 8 % to Feb'y 12, '86	25	
Feb'y 2, '86.	By cash sent Dillman by draft & ex	700 00	
	By interest at 8 % to Feb'y 12, '86	1 55	
			1,472 00
	Balance due said Dillman from said Hastings Feb'y 12, '86		$14,294 48

Said Joseph Hastings died on the 12 day of February, 1886, and at the time of his death and since said money was on interest at 8 %, and the terms of the agency since April first, 1881, have been upon the basis of 8 %, with annual rests, it being an eight per cent. transaction, so that the said sum of $14,294.48 will bear 8 % interest from February 12, 1886, until paid.

THE STATE OF OHIO, } ss:
Hancock County, }

Jared W. Dillman, who usually writes his name J. Walter Dillman or J. W. Dillman, being duly sworn, says that there is
29 justly due to him from the estate of said Joseph Hastings, deceased, the said sum of $14,294.48, with eight per cent. interest thereon from the twelfth day of February, 1886, upon the above and foregoing claim; that no payments have been made thereon, and that no set-offs exist against the same, to the best of his

knowledge and belief, and that the facts stated in the foregoing claim are true.

JARED W. DILLMAN.

Subscribed in my presence and sworn to before me by said Jared W. Dillman this 11th day of May, A. D. 1886.

[SEAL.] H. F. BURKET,
Notary Public.

The undersigned, one of the administrators of the estate of Joseph Hastings, deceased, having no knowledge or information whether there is any sum due to Jared W. Dillman on the within account, and the said Dillman having refused to furnish any evidence or information upon request made that said moneys were paid over to or received by said Hastings in his lifetime, the allowance of said claim is refused.

JOHN F. HASTINGS,
Administrator of Joseph Hastings, Deceased.

Allowed as a valid claim against the estate of Joseph Hastings, deceased.

Circuit Court of the United States, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents.

It is agreed by and between the parties to the above action
30 that the claim hereto attached was presented to the said administrators for allowance; that said administrators at the time demanded an inspection of the original writings and vouchers as evidence of the correctness of such claim, which was refused; and these said administrators as aforesaid, by John F., one of them, endorsed said claim as said endorsement appears in said claim and returned the said claim to the attorneys then acting for said Dillman; that the same claim so endorsed was again afterwards presented to said administrators for allowance, together with copies of letters claimed to have been written by said Joseph Hastings to said Jared W. Dillman as evidence to sustain said claim, at which time the said administrators again demanded an inspection of said original letters, which *were* refused them, and they returned said account and said copies to the attorney acting for said Dillman without any further endorsement thereon.

It is further agreed that this stipulation may be filed in this case and used in the same manner as if attached to or put in the form of a deposition.

May 23rd, A. D. 1887.

WHITELY AND BOPE,
Sol's for Def'ts.
BAKER, SMITH & BAKER,
Sol's for Compl.

And afterwards, on the 7th day of July, 1887, the following stipulation concerning testimony was filed, viz:

Circuit Court of the United States for the Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants. } No. 529.

31 It is hereby stipulated and agreed by and between the parties to this action that the complainant, Jared W. Dillman, was at the time of the commencement of this suit and still is a citizen and resident of the State of Pennsylvania, and that the defendants, John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, were at the time of the commencement of this suit and still are residents of the State of Ohio; and it is further stipulated and agreed that the letters and postal cards referred to in the depositions in this case and marked respectively "Exhibit I, H. F. Burket, notary public," and consecutively, in numerical order, to an- including "Exhibit 30, H. F. Burket, notary public," are in the handwriting of and were written and signed by the said Jared W. Dillman, complainant herein.

WHITELY AND BOPE,
Sol's for Def'ts.
BAKER, SMITH AND BAKER,
Sol's for Compl.

In the Circuit Court of the United States, Northern District, —, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of Joseph Hastings, Deceased, Respondents. } No. 529. In Chancery.

It is agreed that the statement of facts in the United States Navy Register of date January 1st, A. D. 1874, and filed in this action and identified by the signatures of the solicitors for both parties are true, and any statement contained in said register that may be competent or relevent as evidence in the trial of this action may be read and used as evidence in the same manner as if the said state-
32 ment were contained in a deposition taken under the order and rules of said court.

July 5th, A. D. 1887.

WHITELY AND BOPE,
Solicitors for Def'ts.
BAKER, SMITH AND BAKER,
Sol's for Plaintiff.

And afterwards, on the 22nd day of August, 1887, the following motion was filed, viz:

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant, *vs.* JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.	In Equity. Motion.

Now comes the complainant herein and respectfully moves the court to cause an order to be entered herein naming a day certain before which time the defendants herein shall cause all testimony to be used by them in the hearing of this cause to be taken and filed with the papers of this cause.

BAKER, SMITH AND BAKER,
Solicitors for Complainant.

RUFUS H. BAKER, *Of Counsel.*

And afterwards, on the 22nd day of August, 1887, the following order was made and entered in this cause, viz:

JARED W. DILLMAN, Complainant, *vs.* JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.	In Equity. Journal Entry.

33 This cause came on to be heard by me at chambers at Wooster, Ohio, on the motion of complainants for an order limiting the time within which the defendants herein shall cause to be taken and filed in this cause the testimony to be used by them in the hearing hereof, and, being duly advised in the premises, do order that the defendants herein shall cause to be taken and filed in the clerk's office of this court, at Toledo, Ohio, on or before the 20th day of Sept., 1887, all the testimony to be used by them in the hearing of this cause; and it further orders that a certified copy of this order be sent to the defendants herein or their attorneys by the clerk of this court. Done at chambers, at Wooster, this 22nd day of August, 1887.

M. WELKER,
Dist. Judge U. S., E. District.

And afterwards, on the 12th day of October, 1887, the following stipulation concerning testimony was filed, viz:

In the Circuit Court of the United States, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants. } No. 529. In Chancery.

It is hereby stipulated and agreed by and between the parties of this suit that February 17, 1872, Joseph Hastings purchased from William Marion, Deborah Marion, John D. Marion, Florida Marion, George R. Marion, and Martha Marion the following-described real estate: The east one-half of the northeast one-quarter of
34 section number two and the west on'-half of the northwest one-quarter of section number one, both parcels being in township number one north, range number ten east, being in Findlay township, Hancock county, Ohio, and containing in all one hundred and sixty-seven and $\frac{75}{100}$ acres of land; that the consideration paid by said Joseph Hastings for said property was seven thousand two hundred and twenty-seven and $\frac{15}{100}$ dollars in cash. The deed for said property is recorded in volume 28 of Deeds, page 415, etc., in the recorder's office of Hancock county, Ohio; that on April 19, 1875, the said Joseph Hastings purchased from Mary Barr, Ella M. Barr, and Flora Barr the following-described real estate, in the townships of Findlay and Liberty, county of Hancock, and State of Ohio, and known as the south half of the northwest quarter of section number two and the north half of the northeast qua'ter of section number three and the southeast quarter of the said northeast quarter of said section number three and the northeast quarter of the southeast quarter of said section number three, all in township number one north of range number ten east, containing ten hundred and fifty-one and $\frac{75}{100}$ acres of land; that the consideration paid by said Joseph Hastings for said property, as shown by the deed, was the sum of twelve thousand five hundred and seventy-seven and $\frac{50}{100}$ dollars ($12,577.50), and that the deed therefor, *is* recorded in volume 33 of Deeds, page 237, etc., in the recorder's office of said Hancock county, Ohio, recites that sum; that a purchase-money mortgage was made by said Joseph Hastings to the grantors of the last-named deed above on said April 19, 1875, for the sum of nine thousand five hundred and seventy-seven and $\frac{50}{100}$ dollars, as evidenced by nine notes, each for the sum of $1,064.17,
and due in one, two, three, four, five, six, seven, eight, and
35 nine years respectively from their said dates, with interest at six per cent. per annum; that said mortgage was cancelled and released of record April 10, 1884; that said mortgage and the release of the same are recorded in volume 14 of Mortgages, page 497, etc., in the recorder's office of said Hancock county, Ohio; that no other mortgage exists on said land, and that at the time of the death of said Joseph Hastings he was still the owner of both of said above-described parcels of land. It is further agreed that this

stipulation may be used in the hearing of the above-entitled cause, and no certified copies from the records to prove the facts therein set forth nor as testimony in relation to the same shall be necessary.

Oct. 3rd, 1887.

WHITELY AND BOPE,
Sol's for Def'd's.
BAKER, SMITH & BAKER,
Sol's for Compl.

And afterwards, on the 10th day of January, 1888, being a day of the December term, 1887, of said court, the following order was made and entered in this cause, viz:

U. S. Cir. Ct., N. D. O., W. D.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants. } No. 529.

In this cause, by agreement of parties, A. J. Ricks, Esq., because of his experience in matters of accounting, is hereby appointed special master herein to hear and from the testimony determine and report to the court what, if anything, is due complainant herein from the defendants herein on account of the matters set forth in complainant's bill filed herein and what relief be
36 granted to said complainant; and for the purposes of this reference the said special master is hereby vested with all the power and authority conferred upon masters in chancery by the equity rules of the Supreme Court and by the practice of this court. He is authorized to hear testimony, and he will report his findings of law and fact, together with the evidence taken, and also state an account based upon such facts between said parties at the earliest practicable day.

And afterwards, on the 28th day of April, 1888, the following report of the special master was filed in this case, viz:

In the Circuit Court of the United States, Northern District of Ohio, Western Division.

JARED W. DILLMAN
vs.
JOHN F. HASTINGS, Adm'r, *et al.* } Equity. No. 529.

To the honorable the judges of the circuit court for said district:

By an order entered by consent of counsel at the December term, 1887, of your circuit court, the undersigned was appointed a special master "to hear and from the testimony determine and report to the court what, if anything, is due complainant herein from the defendants herein on account of the matters set forth in complain-

ant's bill filed herein and what relief be granted to said complainant; and for the *the* purpose of this reference the said special master is hereby vested with all the powers and authority conferred upon masters in chancery by the equity rules of the Supreme Court and by the practice of this court. He is authorized to hear testimony,
and he will report his findings of law and fact, together with
37 the evidence taken, and also state an account based upon
such facts between the said parties at the earliest practicable
day."

In pursuance to said order I have fully considered the evidence filed in the case and submit my findings as follows: The complainant in 1875 was a surgeon in the Navy of the United States, and then was and for some years prior thereto had been an intimate, personal friend of Joseph Hastings, who then resided in Hancock county, in this judicial district. These friends had for years maintained a correspondence which terminated in a business relation out of which this controversy arose. Joseph Hastings had been known to the complainant in the earlier years of their friendship as a man who was accustomed to act in a fiduciary capacity for neighbors in the settlement of estates and as a public officer of the county in which they then resided. He was regarded as a business man of good judgment and of integrity. With this estimate of his character the complainant therefore readily assented when the said Hastings in his correspondence wrote to him of the demand for money in his county and of the opportunities of investing it safely at a high rate of interest, and offered his services to make such investments for the complainant. The original letters between the parties, excepting a few of the earlier ones from Hastings, are in evidence. The complainant, being in active service in the navy, was not situated favorably for preserving his correspondence, but, very fortunately for him, has been able to produce and identify almost every one of the letters from Mr. Hastings. The defendants found among the papers of their intestate all of the complainant's letters, which they produced, and they are now part of the testimony. These letters set forth very fairly and fully the exact
38 nature of the business relations between the parties. They
contain in themselves the highest evidences of their genuineness and in their questions and responses, family gossip, and neighborhood news relating to mutual friends show beyond doubt that they were written and received at the dates thereof, and express more reliably and in fuller detail than a written contract would the understanding and intention of the respective parties as to the business they were transacting. Relying upon the contract and agreement thus made by this correspondence, the bill of complaint filed against the administrators of the said Joseph Hastings alleges that the intestate of the defendants agreed to take certain sums of money sent to him from time to time by the complainant and loan it out on mortgage and undoubted personal security at ten per cent. interest or the best possible rates and would take all charges and commissions from the borrowers and would so account for said money that complainant should be at no cost on account of such expenses.

The bill avers that between March 1st, 1875, and May 21st, 1881, the said Hastings received under said agreement $7,400 in cash, and that he received said sum and interest thereon at the rate agreed, and should account for said sum, with interest thereon, at annual rests, at the rate of ten per cent. from March 1st, 1875, to April 1st, 1881, and from the latter date to February 12th, 1886, at the rate of eight per cent., at annual rests, which sum, with interest as aforesaid, the bill alleges amounted to $15,766.48. The bill avers that said Hastings never accounted for said interest so accrued, and no accounting as to said principal sum has ever been made except $700.00 returned to complainant February 2nd, 1886. The
39 bill further avers that said Hastings loaned said money in his own name, took notes and mortgages for the payment and security of the same in his own name, and so converted the same to his own use. The bill alleges that complainant is unable to give the names of borrowers, dates of loans, amount and character of securities so taken by Hastings, and prays for an accounting. It further alleges that complainant made proper demand and presented his claim against said administrators as provided by law, and that they refused to pay said claim or give to complainant any information as to said money and securities.

The answer filed by the administrators denies any knowledge on their part as to the facts, and therefore they do not admit the claim, but on information and belief deny it. They aver that complainant refused to show his original accounts and papers and has made conflicting statements to others as to the amount of his claim. They plead the statute of limitations as to all sums due prior to December 25th, 1879.

The correspondence to which the master has referred discloses a trust relation between the parties thereto of the highest character. It shows on the part of the complainant the utmost faith and confidence in the friend of his earlier days, and the letters of that friend well warranted the complainant in believing that the money he was entrusting to him was being securely invested so as to yield the high rate of interest promised. While not customary to incorporate in my reports extracts from the testimony filed, I believe that in this case the master can more clearly present to the court the equities of this case by a few brief extracts from this correspondence than in any other way. As before stated, the first letters
40 from Hastings to complainant he has not been able to produce for reasons stated; but his replies to missing letters were found among the papers of Hastings, were produced by his administrators, and are competent evidence. They are in exact accord with all subsequent letters as to the contract proposed by Hastings and show that complainant transmitted to him the several sums he acknowledges having received at the solicitation of Hastings, to be invested by him at ten per cent., and that, in accordance with said proposition, the complainant began his remittances in March, 1875. These remittances continued, and Hastings' letters acknowledging them seem to have miscarried, for the first of his

original letters in evidence contain a recapitulation of receipts formerly acknowledged and not received by complainant.

On December 14th, 1875, Hastings writes, "When I have been receiving your money I deposited it in bank, being almost a stranger here, at 10 per cent. per annum. I had no chances at once to loan to farmers, but now I have found where I think I can loan it all." He details the plan by which he is to receive ten per cent. and compel borrowers to pay cost of recording mortgages and asks for instructions. On December 17th, 1875, the complainant replies and admits that he had been advised of the deposite in bank as stated and approves of the proposed plan of loans on real-estate security. On November 27th, 1876, Mr. Hastings writes and sets out in detail the amounts received up to that date from the complainant, aggregating $3,799, and when sums were received details how it was safely invested, and says, "It all draws 10 per cent. interest. It is not difficult to lend money at 10 per cent. and have it well secured."

On December 27th, 1876, he repeats substantially the same
41 statement. On July 3rd, 1877, he writes, "I received your letter containing $201.00, which I think I can put at interest in a few days at 10 per cent." In reply to above letter complainant wrote on December 22nd, "Am very thankful for the detailed statement of amounts received; is certainly correct. I never entertained any doubts regarding the investments, knowing that whatever you do is after mature forethought." In a letter dated October 8th, 1878, Mr. Hastings recapitulates receipts at various times subsequent to his other acknowledgements, amounting to $1,201.00, and says, "The above are the several sums received from November 16th, 1876, to this date, according to my memorandum book. I hope they will tally correctly with your account. We have been blessed with a very abundant wheat crop and yet money has been scarce; has been more inquiry for money since harvest than before." On March 11th, 1879, Hastings acknowledges receiving $200, which he says, "I can invest at 10 per cent. in a few days. There is a great demand for money here this spring. I think our legislature will this winter reduce the legal rate to six per cent., when it may be difficult to get more than 8 per cent. However, there is no trouble in getting ten now. If I had the money—three men have been at me for $6,000.00, besides there is application for smaller sums every day." On May 3rd, 1879, in reply to above letter the complainant wrote to Hastings as follows: "Strange that so strong a demand for money at such high rate of int. should continue with your neighboring farmers. Is it possible they can make so much by farming alone? It may seem rather selfish, but certainly so long as they are willing to pay a rate of int. netting me 10 per cent. annually I shall not hesitate to furnish them with all I may have to spare," &c. On

May 14th, 1879, Hastings acknowledges receiving $200 more
42 and says, "It does seem strange that the demand for money continues so great in the West; could loan almost any amount at 10 per cent." On October 9th, 1879, Hastings acknowledges receiving $1,200, and says, "I shall dispose of it all at once at 10 per cent. interest," &c. On March 30th, 1881, Hastings writes that

"money is quite plenty and is dull at 8 per cent." On May 17th, 1881, he says, "Money is rather more plenty than it has been; the demand is rather light at 8 per cent. I have loaned nearly all this spring at 8 per cent.; one lot at six per cent. on shorter time, preferring to take 6 per cent. rather than to let it lay idle altogether; do not know that I could lend your money at this time for more than six per cent. that you spoke of."

On May 23rd, 1881, the complainant, in reply to the above, wrote to Hastings a letter, which was found among his papers, in which the complainant says: "I learn from your letter that there is at present not very much demand for money, even at 8 per cent., still shall enclose herewith three one-hundred-dollar notes, so that you may have it on hand should any one wish it at that rate, and if not please return this, or any other of my money you cannot loan securely, so as to net me 8 per cent."

The agency and trust relation established by this correspondence was fully recognized by Hastings, as appears from other evidence in the case. Witnesses testify that Hastings told them he was loaning money for an Eastern friend, and to one of these witnesses he showed a photograph of the complainant as the friend for whom he was investing money. In some of his tax returns he discloses himself as "agent for J. W. D.," which was meant for the complainant.

This trust relation thus proven by the complainant entitles
43 him to a full an- complete accounting for the sums of money traced to the custody of defendants' intestate, with interest thereon. If Hastings were alive this court would require him to disclose with exactness the full state of the account. The complainant having traced to his hands this money under the circumstances shown by his own letters, this court would require him to show how he had invested it and to repay every cent of it, with full interest. He would not be permitted to say that he had not kept a book of account and therefore could not state in detail when these several sums were invested and how much interest he had received from the loans made. In the opinion of the master his administrators are held to the same rule and they cannot now come into court and claim that the death of their intestate changes the equities of the complainant and requires him to establish his claim against them by any higher degree of evidence than the court would have required of him as against his agent and trustee. The defendants in their answer deny any knowledge of the facts, and it is presumed therefore that they have not found among the records of their intestate any books or papers which show the exact nature of the relations which complainant has established. If their intestate left no such books or records to show the state of the account between himself and complainant, all losses and doubts which such breach of duty entails should fall on his estate. In his letters to complainant he made reference to his books and refers to them in such manner as might well warrant the complainant to believe that he was keeping an exact and full account of his receipts and investments. The master is of the opinion that the complainant is not required to state such an account and estab-

lish by evidence such as defendants' counsel seem to
41 require when and in what way their intestate made
these investments. On the contrary, he holds that the complainant having proved that their intestate received these several sums of money, that the same duty to account for them in detail and with exactness devolves on them as it would upon their intestate were he before the court as a defendant. The defendants have failed to state any account. They have failed to offer any evidence to show when and how their intestate invested the various sums of money which his letters show he did receive. They have failed to produce any books or to tender the investments which their intestate made as a satisfaction of complainant's demands. The testimony, so far as any has been offered on this subject, shows that Hastings invested complainant's money in his own name and took the securities therefor in his own name. In the absence of any effort to account for these funds by the defendants the master is of the opinion that the complainant is entitled to recover the full sum of money which the defendants' intestate received, with interest thereon, as annual rests, at 10 per cent. until April 1st, 1881, and thereafter at 8 per cent. until their intestate's death, as more exactly stated in the account herewith submitted. Defendants' counsel claim that it would be unconscionable to charge their intestate with interest at the high rate claimed without making due allowance for a reasonable time which he must have taken to make reinvestments; but the proof shows he received this interest, and he must therefore account to his principal for all he received. If their intestate had kept an account showing how much time was thus lost in making reinvestments and they were now able to produce any
books and records to enable the master to adjust this con-
45 troversy upon a reasonable basis, full allowance should be
made for all such contingencies; but unless the letters of Hastings were written with intent to mislead his principal he could not have lost much time in making reinvestments. This correspondence certainly makes out a strong case against himself, for he repeatedly writes to his principal that the demand for money is pressing and borrowers numerous and waiting for opportunities to secure loans. Under such circumstances, failing entirely to make any kind of a statement for complainant's benefit, it is not a harsh or unreasonable application of the well-settled rules of equity to take every doubt against him and hold his representatives to the strictest accounting. The master cannot speculate as to the time he took for reinvestments, but is warranted in assuming his letters show the truth, and that his applications for loans at the high rate claimed were such as enabled him to keep his principal's funds constantly invested, as his letters would fairly warrant him in believing.

Upon this rule the account between the parties would stand as follows:

Joseph Hastings to Jared W. Dillman.

DR.

March	10, 1875.	To cash to be loaned for said Dillman--	$1,800 00
		To interest at 10 per cent., annual rests, to Apr. 1, 1881	1,407 42
April	2, 1875.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., annual rests, to April 1, 1881	154 22
June	1, 1875.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., annual rests, to April 1, 1881	148 95
July	10, 1875.	To cash to be loaned for said Dillman--	199 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	144 73
Dec.	18, 1875.	To cash to be loaned for said Dillman--	400 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	262 63
July	30, 1876.	To cash to be loaned for said Dillman--	500 00
46		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	281 06
Nov.	17, 1876.	To cash to be loaned for said Dillman--	500 00
		To interest at 10 per cent., annual rests, to April 1, 1881	259 30
July	4, 1877.	To cash to be loaned for said Dillman--	201 00
		To interest at 10 per cent., annual rests, to April 1, 1881	86 38
July	12, 1878.	To cash to be loaned for said Dillman--	500 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	148 36
May	4, 1878.	To cash to be loaned for said Dillman--	300 00
		To interest at 10 per cent., annual rests, to April 1, 1881	95 97
Oct.	8, 1878.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	53 63
Dec.	5, 1878.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., with annual rests, to Apr. 1, '81	49 80
M'ch	11, 1879.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	43 36
May	6, 1879.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., with annual rests, to Apr. 1, 1881	39 86
Aug.	20, 1879.	To cash to be loaned for said Dillman--	200 00
		To interest at 10 per cent., annual rests, to April 1, 1881	33 51
Oct.	9, 1879.	To cash to be loaned for said Dillman--	1,200 00
		To interest at 10 per cent., with annual rests, to Apr. 1, '81	183 07

Dec. 25, 1879.	To cash to be loaned for said Dillman--	$100 00
	To interest at 10 per cent., annual rests, to April 1, 1881	12 93
		$10,495 18
	To interest at 8 per cent., with annual rests, to Feb. 12, 1886	4,773 37
May 21, 1881.	To cash to be loaned for said Dillman--	300 00
	To interest at 8 per cent., with annual rests, to Feb. 12, 1886	125 95
		$15,694 50
	Credit by cash paid Feb. 2, 1886-	700 00
	Balance due	$14,994 50

On April 2nd, 1881, the complainant wrote to Hastings a letter, which his administrators have produced, in which, after re-
47 peating his directions to return all money which could not be invested so as to net him 8 per cent., he says: "In accordance with my account, if I have calculated correctly, the sum in your hands on the 1st inst. amounted to about $10,500. I should like to know how this corresponds with your account; hence you will please inform me what amount your account shows to my credit April 1st, 1881, especially since there is now a change of interest. I think this a very good time to know how our accounts agree." This letter, having been found among the papers of Hastings, must have reached him. The amount therein claimed corresponds substantially with the sum above reported to be due. The claim so preferred, if excessive or not supported by just proof, would certainly have challenged the prompt attention of Hastings and received his denial. Letters from him written soon after, while not bearing on their face positive proof that they were written in reply to the above request for an account, relate to the same subject-matter and would certainly in some way have indicated his protest against the demand if he considered it so great an extortion as his representatives now insist it is.

The question of a proper and fair compensation to the defendants for the services of their intestate in making these loans for complainant remains for consideration.

The complainant contends that the contract was that his rate of interest to be received was ten per cent. per annum net, and that Hastings was to take his compensation for services from the borrowers. The letters indicate that such was the agreement, but the proof is not entirely satisfactory. In several of the letters of the complainant he positively states that such was his under-
48 standing of the contract, but in the replies of Hastings he does not positively commit himself to this arrangement.

The failure of the agent or of his representatives to produce any account as hereinbefore referred to is a strong circumstance to support complainant's demand, and the master feels that it would

not be a strained conclusion to so construe the contract. The claim is certainly fully warranted as to the contract after April 1st, 1881, when the rate of interest was reduced to 8 per cent. Complainant was more specific in his directions to his agent after that time, and it seems clear that Hastings was then positively instructed to so invest the money as to net his principal eight per cent. per annum or return it. The inference is strong that the same understanding previously existed, that the rate of interest was to be ten per cent. net, but the proof is not as satisfactory. The master therefore reports that a compensation should be allowed for the services of defendants' intestate from March, 1875, to April, 1881, for loaning and reinvesting the amounts which on the latter day amounted to about $10,500.00. Under all the circumstances of this case the master reports that $600 would be a fair allowance for such services.

A claim is made by the defendant- for certain sums paid by their intestate on account of taxes. This claim was conceded in the bill, but disputed in the argument of the case by counsel as having been conceded in the bill as a misunderstanding of facts. The proof shows that Hastings acted as agent for others in loaning money. It does not appear for whom these taxes were paid. It is clear that under the laws of Ohio complainant was not liable to pay
49 taxes on the funds loaned for him by his agent. If that agent were before the court with a full disclosure of his dealings and could show that under a mistake of law he had honestly paid taxes for complainant the master would consider such a claim with greater favor. As the proof now stands the master is of the opinion and so reports that no credit should be given for taxes, for none were legally chargeable against the complainant.

Deducting the sum of $600.00, allowed, as above stated, for compensation, *for* the amount of $14,994.50, as hereinbefore found due complainant, there remains the sum of fourteen thousand three hundred ninety-four and $\frac{50}{100}$ — ($14,394.50), which the master finds is justly due to the complainant from the defendants as administrators of the estate of Joseph Hastings, deceased. This sum should bear interest at the rate of six (6) per cent. from February 12th, 1886.

The testimony submitted to the master is all on file and before the court.

All of which is respectfully submitted.

A. J. RICKS,
Special Master.

And afterwards, on the 3rd day of May, 1888, the following exceptions to master's report were filed, viz:

Circuit Court of the United States for the Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of Joseph Hastings, Deceased, Respondents.

By original bill, answer and reply, and testimony.

50 *Exceptions of Defendants to Master's Report Relating to a Statement of Account Between the Parties.*

1 exception. For that the said master hath in and by his said report certified that he has charged the said respondents for moneys received by the deceased from complainant the sum of $200 March 11, 1879, and the further sum of $200 May 6, 1879, whereas the said master ought to have certified that said two amounts are one and the same and amount to but $200.

2 exception. For that the said master has charged against said respondents in said account the sum of $200 of August 30th, 1879, whereas the said master ought to have certified that no testimony was introduced in the case to show that said sum had ever been received by the deceased.

3 exception. For that the said master has by his said report certified that he has charged respondents and allowed complainant in his account interest at the rate of 10 per cent., compounded yearly, on all moneys from March 10th, 1875, to April 1st, 1881, and on all moneys from April 1st, 1881, to February 12th, 1886, interest at the rate of 8 per cent., compounded yearly, whereas these respondents protest that they ought not to be charged with such sums for interest at such rates, because, they say, that if the deceased agreed to account to complainant for such rates said agreement was illegal and void; and, further, because the testimony does not show that any sum as interest was ever received by deceased on said moneys of complainant in his lifetime or by the respondents after his death; wherefore the said master should have charged and certified in his report only the legal rate of 6 per cent. on said money and no more.

4 exception. The said master has erred, in that because respondents are unable to make an account of moneys received and the interest accruing therefrom that therefore the respond-
51 ents are chargeable with interest on said moneys at the rates certified and for the time certified by him. He should have charged these respondents with only the legal rate of 6 per cent. on said moneys and such further gains as actually came to the said deceased, to be found from the testimony.

5 exception. For that the said master erred in holding it obligatory upon the said respondents to furnish books and papers and state an account of principal moneys and interest received by deceased; and, further, certifying that because they are unable to do so every doubt should be resolved against them, and that the re-

spondents are held to account for the interest at the rate and for the time as stated by said master, whereas these respondents say that by law it became, at the death of said deceased, the duty of complainant to make and verify by vouchers any claim which he held against said deceased and to show what amount of money was due from said deceased to him for principal and interest, and they submit that no sum ought to be allowed him upon any presumption or otherwise than such proof.

6 exception. For that said master has refused, and so certified in his report, to allow in said account as a credit to these respondents any sum paid for taxes by deceased upon the moneys of complainant, whereas, as agent for complainant, the said deceased was by law required to list said moneys for taxation in Hancock county and pay the taxes thereon semi-annually for said time, and the same ought to be allowed in said account and report.

7 exception. For that said master in and by his report certified that he finds the several sums for interest therein stated to be the gains on said principal sums for the time aforesaid, &c., and that the compensation of said deceased he certifies to be only $600.00,
52 whereas said compensation should be a sum equal to the excess of interest over six per cent., according to the testimony in the case before him.

8 exception. For that the said master has found and certified interest on said fund continuously for the time without allowing any rests for compensation or interest thereon, whereas he should have made an allowance for compensation for each year and deducted the same from the fund or allowed interest on such compensation.

9 exception. For that the said master has not, and has so certified in his report, allowed any time for inveating and reinvesting said money, whereas he should have allowed a reasonable time, after said moneys were received from complainant and so from year to year, in which to invest and reinvest the same.

10 exception. For that the finding of said master, as certified in his report, that the said deceased was to increase such fund, under any agreement, arrangement, or understanding, by a rate of interest at 10 per cent., compounded annually, or by 8 per cent., compounded annually, is not sustained by sufficient evidence in the case.

Wherefore the said John F. Hastings and Philip Reimund, as administrators of the estate of Joseph Hastings, deceased, except to the said master's report and appeal therefrom to the judgment of this honorable court.

JOHN F. HASTINGS AND
PHILIP REIMUND,
As Administrators of Joseph Hastings, Deceased,
By WHITELY AND BOPE,
Solicitors for Respondents.

And afterwards, on the 15th day of May, 1888, the following exceptions on behalf of complainants were filed, viz:

Circuit Court of the United States for the Northern District of Ohio, Western Division.

53 JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP REIMUND
vs.
JOHN F. HASTINGS and PHILIP REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents.
} No. 529.

Exceptions of Complainant to Report of Master.

Now comes the complainant herein and excepts to the report of the master filed herein on the following grounds:

1. For that the said master hath in and by his said report certified and reported a finding that the complainant is to be allowed interest at the rate of six per centum per annum from the time of the death of Joseph Hastings on the amount he finds due complainant at that time, whereas by the testimony in the case the said master ought to have reported a finding allowing complainant interest at the rate of eight per centum per annum, with annual rests, on said amount from said date.

2. For that the said master hath in and by his said report certified a compensation of six hundred dollars for the services of defendants' intestate, whereas by the testimony in the case and the findings of the master in said report no compensation whatever should have been allowed.

3. For that the said master hath in his report erroneously stated, in that part of his report referring to taxes, that "this claim was conceded in the bill, but disputed in the argument of the case by counsel as having been conceded in the bill on a misunderstanding of facts." The said master should have stated, as the fact was, that the claim was conceded in the account as filed with the administrators, but was disputed in the bill and in the argu-
54 ment of the case by counsel for complainant as having been conceded in the account as filed with the administrators on a misunderstanding of the facts.

Wherefore the complainant excepts to said report on the above-named grounds and appeals therefrom to the judgment of this honorable court.

JARED W. DILLMAN,
By BAKER, SMITH AND BAKER AND DOYLE, SCOTT AND LEWIS,
Solicitors for Complainant.

WM. BAKER, *Of Counsel.*

And afterwards, on the 29th day of June, 1888, being a day of the June term, 1888, of said court, the following decree was entered by direction of the Honorable Howell E. Jackson, circuit judge, who heard and decided this case:

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents. } Entry. 529.

This cause came on to be heard on the report of the special master filed herein, the exceptions thereto of the complainant, and the exceptions thereto of the defendants, and was argued by counsel; and therefore, upon consideration thereof, it was ordered, adjudged, and decreed as follows: That each and every the exceptions filed to said report by the complainants herein be, and the same hereby are, disallowed; that each and every the exceptions filed herein by the respondents are disallowed except as hereinafter set forth; the court finds that the master erred in the method of computing interest on the amounts in his report set forth; that the taxes set out in
55 the evidence in the case should have been allowed the respondents, and that the respondents should have been allowed the sum of one thousand and eighty dollars for compensation for services in the agency. The court further finds that except as above specified the report of the special master should be, and is hereby, confirmed and approved; and, making the allowances above set forth to the respondents, the court finds there is due complainant from the said John F. Hastings and Philip Reimund, as administrators of the estate of Joseph Hastings, deceased, the sum of twelve thousand one hundred and seventy-two and $\frac{52}{100}$ dollars, with interest from the first day of this term, to with, June 5, 1888; and the said John F. Hastings and Philip Reimund, administrators as aforesaid, are ordered, adjudged, & decreed to pay said sum to complainant or the attorneys of record of said complainant, with interest as aforesaid, and that execution issue therefor, to be levied of the property of said Joseph Hastings in the hands of said administrators. It is ordered that respondents pay the costs of this action, taxed at $—. It is further ordered that there be allowed to A. J. Ricks, special master, the sum of one hundred and fifty dollars for his services in this case, and that the same be taxed in the costs of this case, and that execution issue for said costs.

And afterwards, on the 28th day of August, 1888, the following allowance of appeal was made by the Honorable Martin Welker, one of the judges of said court, and duly entered on the records of said court in said cause, viz:

In the Circuit Court of the United States, Northern District of Ohio, Western Division.

56 JARED W. DILLMAN *vs.* JOHN F. HASTINGS *et al.* } Equity. No. 529.

An appeal is allowed in the above-entitled case on behalf of the complainant and bond fixed at five hundred dollars.

Done at chambers, at Wooster, this 28th day of July, A. D. 1888.

M. WELKER,
District Judge U. S., said District.

57 *Complainant's Testimony.*

On the 3rd day of May, 1887, the following despositions were filed in this cause on behalf of complainant, viz:

In the Circuit Court of the United States, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Plaintiff, *against* JOHN HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendant-.

The defendant- will take notice that on Wednesday, the 27th day of April, A. D. 1887, the above-named plaintiff will take the depositions of sundry witnesses, to be used as evidence on the trial of the above-entitled cause, at the office of the clerk of the court of common pleas, in the village of Findlay, county of Hancock and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

BAKER, SMITH AND BAKER,
Solicitors for Complainant.

We acknowledge service of the above notice and waive the neces-ity of other notice at its date & time this 27th day of April, 1887. WHITELY, BOPE, & M. D. SHAFFER,
Attorneys for Defendants.

It is hereby stipulated and agreed that depositions may be taken under the above notice before Harlan F. Burket, a notary public in and for the county of Hancock and State of Ohio, and that all other notices, prerequisites, and forms required by law or rule of court for the taking of testimony are waived, and testimony taken
58 under the foregoing notice shall be received in evidence the same as if all such legal requirements and formalities were fully complied with.

Findlay, O., April 27, 1887.

BAKER, SMITH AND BAKER,
Sol'rs for Complainant.
WHITELY, BOPE AND SHAFER,
Attorneys for Def'ts.

Caption for Depositions.

Depositions taken before me, Harlan F. Burket, a notary public within and for the county of Hancock, in the State of Ohio, pursuant to the annexed notice and stipulation at the time and place therein specified, to be read in evidence on behalf of the complainant in an action pending in the circuit court of the United States in the northern district of Ohio, western division, in which Jared W. Dillman is complainant and John Hastings — Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, defendants.

Present: R. H. Baker, on behalf of the complainant, and M. C. Whiteley, on behalf of the defendants.

ALFRED GRABER, of lawful age, being by me first duly sworn, as heretofore certified, deposes & says as follows:

By R. H. BAKER:

First question. State your name, age, occupation, & place of residence.

Answer. My name is Alfred Graber; I am 33 years of age; I am an attorney-at-law by occupation, and I reside in Findlay, Ohio.

2nd question. How long have you resided in Findlay?

Answer. Thirty-three years.

3d question. State whether or not you were acquainted with one Joseph Hastings in his lifetime.

Answer. Yes, sir.

59 4th question. How long had you known him?

Answer. Soon after he came to this county; quite a number of years; I think about '72 or '3 he came here; known him since.

5th question. Are you acquainted with the handwriting of Joseph Hastings?

Answer. Yes, sir.

6th question. Look at the letter I hand you, dated Findlay, O., October 8th, 1878, and marked by the notary, for identification, Exhibit "A," H. F. Burket, notary public, and tell me, if you can, in whose handwriting it is.

Answer. It looks like Joseph Hastings' writing.

7th question. From your knowledge of his handwriting you may state whether or not it was the writing of said Joseph Hastings.

(Objected to by defendant.)

Answer. I think it is.

8th question. You may look at the letter I hand you, dated Findlay, Ohio, November 26th, 1879, and marked for identification Exhibit "B," by H. F. Burket, notary public, and tell, if you can, in whose handwriting it is.

Answer. I would say it was Joseph Hastings'.

9th question. You may look at the letter I hand you, dated Dec.

25th, 1879, and marked for identification Exhibit "C," and signed H. F. Burket, notary public, and tell me, if you can, in whose handwriting it is.

Answer. Joseph Hastings'.

10 question. You may look at the letter dated Findlay, Ohio, March 30th, 1881, and marked for identification Exhibit "D," and one dated Findlay, Ohio, May 17th, 1881, and marked for
60 identification Exhibit "E," and one dated Findlay, Ohio, May 30th, 1881, and marked for identification Exhibit "F," and one dated Findlay, Ohio, Nov. 4th, 1882, and marked for identification Exhibit "G," and one dated Findlay, Ohio, April 27th, 1883, and marked for identification Exhibit "H," and one dated December 28th, 1885, and marked for identification Exhibit "I," and one dated Findlay, January 8th, 1886, and marked for identification Exhibit "J," and all signed by H. F. Burket, notary public, and tell in whose handwriting any or all of them are.

Answer. I think they are all written by him, Joseph Hastings.

11th question. And by whom are all the letters shown you above signed?

Answer. J. Hastings.

12th question. You may look at the paper I hand you, marked for identification Exhibit "K," and signed by H. F. Burket, notary public, and tell in whose handwriting it is.

Answer. I think it is Joseph Hastings'.

Answer objected to by defendants.

13th question. You may look at the envelope marked by the notary Exhibit "L" for identification and signed by H. F. Burket, notary public, and tell what marks it has on it.

Answer. J. W. Dillman, M. D., number 1809 Market St., Philadelphia, Pennsylvania; postmarked, Findlay, Ohio, Dec. 28th; received December 30th, 7 a. m., Phila., Pa., it being postage-stamped when received at Phila.; also an advertisement of the Continental—terms, $3.00 to $4.00 per day—printed on the reverse. One stamped in front at the same hotel.

14th question. State whether or not you ever had any
61 conversation with Joseph Hastings in regard to money matters and especially in reference to his loaning money.

Answer. Yes, sir.

15th question. Tell us what that was.

Answer. We talked many times about loaning money. He was in my office one day and he had me address a letter to J. W. Dillman, and he made the remark that that was the name of his Eastern friend for whom he loaned money.

16th question. When was this conversation?

Answer. It was some time after his return from New York, when he was there looking after the Amieka Jans estate. I think that was about '85 or '86.

17th question. You may look at the envelope I hand you, marked for identification Exhibit "M," and signed by H. F. Burket, notary

public, and tell whether or not that it is the envelope you referred to as having addressed.

Answer. Yes, sir; I addressed this. This is the one I referred to. It is postmarked Findlay, Ohio, Apr. 27.

Cross-examination by M. C. WHITELY, defendants' att'y:

1st question. About what was the apparent age of Joseph Hastings?

Answer. I think he was near about seventy years of age about the time he died.

2d question. How long has it been since you saw Joseph Hastings write?

Answer. He did some writing in my office about the summer of '85. It may have been a little later. He used to come up quite often and write letters there, and we talked about the Amieka Jans matter, in which he seemed to be greatly interested.

62 3rd question. Did you see at said time and inspect what he wrote?

Answer. Yes; I did not read his letters, but seen the envelopes.

4th question. What did you ever see him write that you examined?

Answer. He came into the bank where I was working previous to the year 1878, and occasionally would show me his letters that he had written, and I think some other writing which I cannot now state, and since 1881 he has been in my office a great deal, and at different times he has shown me instruments which he has drawn and asked me what I thought about them.

5th question. Name any particular writing which he showed you.

Answer. I cannot recall any now except a book or ledger in which he was guardian or administrator, I don't know which it was, somebody down in Richland county.

6th question. To whom were any of the letters which he showed you written?

Answer. I could not testify to that positively, it has been so long.

7th question. Were they written with a pencil or pen?

Answer. I think with pen and pencil, some with a pen and some with a pencil.

8th question. Look at letters marked Exhibit "I" and "J" and state what printed matter you find therein.

Answer. The Continental, J. Kingsley and Company, Phila.; then 188–.

9th question. When was the conversation had in which you said that Dillman was his Eastern friend for whom he was loan-

63 ing money?

Answer. It was when Hastings got back from New York. He was there to see about his Anneka Jans estate, in which he represented some heirs, and he came to tell me what success he had, and we talked the matter over and he said, I wish you would address this letter to J. W. Dillman. I made the remark, Who is

this Dillman? He said, My Eastern friend for whom I am loaning money. This must have been in 1884 or '5, I think.

10th question. At what time did you commence keeping an office as attorney at Findlay?

Answer. October 1st, 1881.

11th question. Were you from that time on to the death of Joseph Hastings his attorney or counselor about the matters of his business?

Answer. No; I think not. I did a great deal of business for him, writing notes, figuring interest, and such work.

12th question. Are you now employed by the plaintiff in this case or in any manner engaged by him to look up testimony in his behalf?

Answer. The first time I ever met the plaintiff he came to my office, I think soon after Mr. Hastings' death, and he spoke about having me look after his matters; but he failed to employ me. When he came the other day I think he has this package of letters and asked me if I could testify to the handwriting of these letters, and he stated that he wanted to take the depositions of about 5 others here and would like me to take them, said he merely wanted an affidavit or a certificate, and I told him I guess he did not understand what he wanted, and to go home and see his attorneys, and they came back yesterday, I believe, and said they
64 wanted to take my testimony, and of course I could not take the depositions for him. I have looked up no further testimony for him than I have stated here.

13th question. Have you been employed or engaged by or for the plaintiff to look up witnesses to testify for him in this case, or have you acted in any manner in that capacity for him?

Answer. No, sir; I never considered myself his attorney, or was never employed by him to look up testimony in this case. I did not look up any testimony for him.

14th question. How much of the writing that you saw done by Joseph Hastings was done with a pencil and what part with a pen?

Answer. I cannot state.

15th question. State how the letter was written that you addressed as you said above—whether with pencil or pen.

Answer. I don't remember.

16th question. (*a*) You say in your examination-in-chief that Hastings frequently came into the bank & wrote. (*b*) State when the bank closed business & when you went out of the bank.

Answer. (*a*) Yes, sir; (*b*) March 27, 1878.

17th question. State how often you saw him write between that time and the date that you opened your office as an lawyer in 1881.

Answer. I cannot answer that for the reason that I was away from home a greater part of the time between those two dates. I might have seen him write between those two dates and I might not. I don't remember.

18th question. Can you say that you saw him write at all between those two dates?

Answer. No.

Redirect examination by Mr. R. H. BAKER, plaintiff's att'y:

65 1st question. Did you ever act as the attorney of Mr. Hastings in connection with his business with J. W. Dillman?

Answer. No, sir.

2nd question. In your cross-examination you state that when Dr. Dillman was here last week he wanted you to take some testimony. Did you understand him as wanting you to act as his attorney or as notary?

Answer. As notary.

3rd question. What bank do you refer to as having been connected with previous to 1878?

Answer. H. P. Gage and Company.

4th question. What has become of that bank now?

Answer. Failed March 29, 1878.

5th question. What became of its books?

Answer. I do not know.

6th question. In what shape was Mr. Hastings' business done at that bank, if he did any there?

Answer. He deposited money and took certificates for it.

7th question. What has become of the certificates of that bank?

Answer. I understood they were sold for old paper.

Recross-examination by M. C. WHITELEY, for defendants:

1st question. State whether Mr. Hastings was a depositor of large sums of money frequently or otherwise.

Answer. Yes; I know he deposited there some large sums and some small; he took the certificates in his own name for whatever sums he deposited.

ALFRED GRABER.

H. P. CLARK, being duly sworn, testified as follows:

1st question. State your name, age, occupation, and place of residence.

Answer. H. P. Clark; age, 47; occupation is a farmer; Liberty township, Hancock county, Ohio, is my home.

2nd question. State whether or not you were acquainted with Joseph Hastings.

66 Answer. Yes, sir; I was acquainted with him for a few years.

3rd question. For what time prior to his death were you acquainted with him?

Answer. Ten or eleven years.

4th question. How far did you live from his place?

Answer. I adjoined him; it is about one-half mile from my residence to his.

5th question. State whether or not you ever borrowed any money of him.

Answer. I did.

6th question. When?

Answer. Ever since he has been there; off and on for the last eight years.

7th question. In what amounts?

Answer. Different amounts; sometimes one hundred, sometimes two hundred, and up to eight hundred.

8th question. What security, if any, did you give him for these loans, if any?

Answer. I gave bail on the first, and on the last $800.00 I gave a mortgage.

9th question. In what did the bail consist?

Answer. I gave personal security.

10th question. On the last loan you speak of what security did you give?

Answer. Mortgage on my place.

11th question. What was the amount?

Answer. $800.00.

12th question. Give the circumstances connected with this loan.

Answer. In the first place, about July, 1884, I got $500.00, and saw that was not enough, so got $300 in fall, and paid him interest on $500 & put it with $300.00 and made it $800 in all; then
67 I gave my note and mortgage on the place for $800.00.

13th question. What rate of interest did you pay him on this?

Answer. 8%.

14th question. Payable how?

Answer. Annually.

15th question. Is this note now paid in full?

Answer. It is paid.

16th question. State whether or not in paying this note the interest was compounded.

Answer. It was what I called annual interest. If interest — not paid at end of the year I paid interest on interest.

17th question. Did you pay any interest on interest?

Answer. I did, sir.

18th question. Did you know at any time whether or not this money that you were borrowing from Mr. Hastings was his money or not?

Answer. I didn't. After I had borrowed of him one year I asked him if he needed that money when due or not. He said he did, for he got letter from his man that he wanted to raise all the money he could.

19th question. Did he tell you who this man was or where he lived?

Answer. No, sir.

20th question. State whether or not you were afterwards informed that Dr. Dillman was the man for whom Mr. Hastings was loaning the money to you.

Objected to, and question waived by plaintiff.

Cross-examined by M. C. WHITELY, for defendant-:

1st question. State the several amounts and in what years you borrowed the same from Mr. Hastings.

Answer. I don't believe I can do it, nor can I tell anything about the amounts or the times until the last.

68 2d question. How much interest did you pay on interest?

Answer. I paid interest on interest for one year's interest on eight hundred dollars.

3d question. How long was the $800.00 borrowed for, and how long did you keep it?

Answer. Two years. I kept all of it one year, and in 1885, on April 7, I paid it. I paid it all before it was due.

4th question. Did you or not pay due at the end of the first year?

Answer. I paid it after it was due the first year—about four months after it was due.

5th question. In whose name was this note and mortgage taken?

Answer. I guess it was taken in Mr. Hastings'.

Re-examined by Mr. BAKER, for plaintiff:

1st question. How long was it after you gave him the note for $800.00 that you made your first payment on it?

Answer. It was about sixteen months.

2nd question. State whether or not, when you finally paid up the note, you paid the interest on it to the time it was due.

Answer. Yes, sir; I did.

3d question. Who paid for the drawing of the mortgage and for the record of the mortgage?

Answer. I paid the drawing of the mortgage. I suppose he paid the recording.

Recross-examined by M. C. WHITELY, for the defense:

1st question. How long before the note became due did you make the last payment on it?

Answer. I made the last payment in October. That would be from October to November 25.

2nd question. Did you pay interest up to the time you made the last payment or up to the time it became due?

Answer. I allowed interest on it until it was due. I paid 2 or 3 installments on it up to October 4th and interest on bal-

69 ance until it was due.

3d question. What time was it that Hastings told you that his man had written to him, and that he wanted all the money he could get?

Answer. Well, it was a month or six weeks before he died.

4th question. To whom did you make the last payment of this money?

Answer. To the administrator.

5th question. Was it the administrator to whom you paid interest from October fourth till the note became due?

Answer. Yes, sir.

H. P. CLARK.

Mrs. ELIZA A. CLARK, being duly sworn, testifies as follows:

1st question. State your name and place of residence.

Answer. Eliza A. Clark; Liberty township, and am the wife of H. P. Clark, who was the last witness here.

2d question. State whether or not you were acquainted with Joseph Hastings; and, if so, for how long prior to his death.

Answer. I was acquainted with Joseph Hastings for about ten years before his death.

3d question. How long before his death did you last see him?

Answer. I was with him the night before he died.

4th question. How long was he confined to his bed before he died?

Answer. He was bad for about one week.

5th question. How long before he died was he in condition to do work?

Answer. I visited him about a week before he died, and I thought he was capable of doing business.

6th question. Did he ever or did he not say to you anything in regard to loaning money for any one away from here?

Answer. Yes, sir. We were looking at the pictures, and we came to a picture, and he said that is the man that he was getting money of, I suppose, to loan.

70 7th question. Where was this picture?

Answer. In the photograph album.

8th question. When was this?

Answer. Perhaps a year or two before he died.

9th question. Was this before or after your husband borrowed the $800.00 of him?

Answer. It was after.

10 question. Had you ever seen at that time the man whose picture he pointed to you?

Answer. No, sir; I had not.

11 question. Have you seen him since?

Answer. Yes, sir.

12th question. Whose picture was it?

Answer. Mr. Dillman.

Answer objected to by M. C. Whitely, defendants' att'y.

13th question. Where did you first see him?

Answer. The evening before Mr. Hastings died I went up there and recognized him by his picture.

Cross-examined by M. C. WHITELEY, defendants' att'y:

1st question. What time in the day was it that Hastings showed you that picture?

Answer. In the afternoon, right away after dinner.

2d question. In about what month and in what year was it?

Answer. In 1885 or 1886, along in the spring of the year.

3d question. How long before Mr. Hastings died was it?

Answer. Inside of two years.

4th question. How often did you see that picture before the death of Hastings?

Answer. I can't tell just the number of times. I saw it several times.

5th question. How often did you converse with Hastings about it?

71 Answer. Only spoke about it the one time.

6th question. What other pictures did he show you at that time?

Answer. The family's and relatives mostly.

7th question. What did he say about any other picture he showed you that day?

Answer. Nothing in particular, only who they were as we were looking over the album.

8 question. State exactly what was said by Mr. Hastings about the picture that you now say was Dillman's.

Answer. He just spoke and said, That is the man I get my money from.

9th question. State any other conversation had with Hastings that day.

Answer. I don't remember that long what we did talk about. We talked the same as any persons else would.

10 question. Can you remember any single word that was said that day except what was said about that picture?

Answer. No, sir.

11 question. How long was it after you say Hastings showed you the picture that you saw Dillman, the plaintiff?

Answer. I don't know as I can tell you the time. I saw Dillman just the evening before he died, and it was inside of two years that I saw the picture.

12th question. Have you at any time since compared the picture with Dillman or do you speak *or do you speak* from your recollection of what you supposed to be a resemblance?

Answer. No, sir; I have not. I have seen the picture often enough to know it was his picture.

13th question. Who was present at the time Hastings showed you the picture?

Answer. His two daughters.

72 14 question. Were they taking part in the examination of the pictures, and were they in hearing distance of any conversation at that time?

Answer. They were in the same room, but they were tending to their work and he was showing me the album.

15th question. Describe the picture you saw.

Answer. It was a photograph, and resembled Mr. Dillman. It was a bust—just showed him from the arms up—small size.

16 question. Do you swear that picture was made as and for the plaintiff Dillman?

Answer. Yes, sir; I do.

17th question. Are you a sister of a man known as Cran. Watson?

Answer. Yes, sir.

18th question. Have you had any conversation with him about this case?

Answer. Not in particular, but we have spoken about it some.

19th question. Has he or not told you what he knew about the case?

Answer. No, sir; he has not.

20 question. Did you tell him about this picture?

Answer. I have spoken to him about it in our conversation.

21 question. Did he not ask you to tell him all you knew about the picture?

Answer. No, sir; he did not.

22d question. Did you know that Watson was looking up the case for Dillman?

Answer. No; I did —. He never told me that he was.

23d question. How often did you and Watson talk about the case?

Answer. We talked about it several times, but no particular questions were asked on either side.

73 24th question. How often did Watson speak to you on the subject of that picture?

Objected to by complainant's attorney.

Answer. Once or twice that I remember.

25th question. Did he ask you what you knew about it?

Objected to by complainant's attorney.

Answer. Not in particular. He just asked me about the picture, and I told him what Mr. Hastings had told me, and that was all that was said about it.

26th question. How often has the plaintiff, Dillman, visited at your house since Mr. Hastings' death?

Answer. Once is all.

27th question. When was that and how long did he stay at your house?

Answer. It was one day last week—on Thursday, I think—and he didn't stay more than half an hour.

28th question. What was his business there if it was made known to you?

Answer. He came down to have us come up and witness what we knew about Mr. Hastings concerning him.

29th question. Did he tell you what he wanted to prove by you?

Answer. He did.

30th question. What was the condition of Mr. Hastings' health during the fall and winter before his death?

Answer. His health was poor; sometimes he was bad and sometimes he was better.

31st question. Was he confined to his room during that fall and winter?

Answer. Yes, sir.

32d question. When he spoke about the money at the time you were looking at the picture did he say getting money or borrowing money?

74 Answer. Why, he said that was the man he was getting his money from.

33 question. How often did you visit at Mr. Hastings' house during the fall and winter before his death?

Answer. I can't just say the number of times, but I would always go when I would hear he was worse; sometimes twice a week.

34th question. What was his condition—what seemed to be the matter with him?

Answer. I don't know as I can answer that, nor can I tell much about it. Sometimes he was cheerful and sometimes he was not. He was able to walk around most of the time.

35th question. State whether any of his limbs were paralyzed during that fall and winter.

Answer. At one time there was; his left arm. I don't know whether it was that fall or the year before.

Re-examined by Mr. BAKER, for the complainant:

1st question. Was he confined to his house continuously during the fall previous to his death?

Answer. Why, not all the time.

2d question. Do you remember of his going away late that fall or early in the spring to Pittsburgh?

Answer. No; I don't. I know he started away once and didn't get to go. I didn't ask any questions.

3d question. Do you know whether it was that year or the year before?

Answer. I think it was that year, but I am not positive about it.

ELIZA A. CLARK.

MATTHEW M. ALEXANDER, being duly sworn, testifies as follows:

1st question. State your name, age, occupation, and place of residence.

75 Answer. Matthew M. Alexander; 40 years old next fall; occupation, farmer; residence, Allen township, Hancock county, Ohio.

2d question. State whether or not you were acquainted with Joseph Hastings; and, if so, how long prior to his death.

Answer. Yes, sir; I have known him several years. He was an uncle of mine. Known him ever since I was old enough to mind him, of course.

3d question. How far was it from your farm to his?

Answer. It was only about 80 rods. Last 6 years we joined farms.

4th question. How often were you in the habit of seeing him during the last ten years of his life?

Answer. I saw him pretty often; sometimes every day; often no more than once a week.

5th question. State whether or not you ever heard him speak of J. W. Dillman.

Answer. I have, sir.

6th question. When?

Answer. I coulden't just state time, but in last few years. I have heard him speak of him, of course.

7th question. What did he say about him?

Answer. I heard him say he had got money from Dillman.

8th question. What, if anything, did he ever say to you in regard to the purpose of his getting money from Dillman?

Answer. He told me Dillman was sending him money to loan out.

9th question. State whether or not he ever told you that he had loaned money of Dillman's here.

Answer. Yes, sir; he did.

10th question. Do you know of his having loaned money
76 that came to him from Dillman; and, if so, to whom did he loan it?

Answer. He loaned to a good many men, but I do not know just who to; he did not tell me any certain man. I could not say that it came from Dillman.

11th question. State whether or not Hastings ever told you that he was loaning money that he got from Dillman.

Answer. Yes, sir; he did.

12th question. State whether or not you knew of his loaning money to your uncle, George Alexander.

Answer. He loaned him money, but whose money it was I don't know.

13th question. How much did he loan him?

Answer. Five hundred dollars.

14th question. Do you recollect the date of it?

Answer. No, I don't. I think about 1880.

15th question. Where is your Uncle George now?

Answer. He is out in Kansas.

16th question. State whether or not you are acquainted with the handwriting of Joseph Hastings.

Answer. I have been. I have seen right smart of his writing.

17th question. What means have you had of becoming acquainted with the handwriting of Joseph Hastings?

Answer. He has wrote us a great many letters, and I have compared the letters together.

18th question. You may look at the papers marked Exhibit "A," H. F. Burket, notary public; Exhibit "B," H. F. Burket, notary public; Exhibit "C," H. F. Burket, notary public; Exhibit "D," H. F. Burket, notary public; Exhibit "E," H. F. Burket, notary public; Exhibit "F," H. F. Burket, notary public; Exhibit "G,"
77 H. F. Burket, notary public; Exhibit "H," H. F. Burket, notary public; Exhibit "I," H. F. Burket, notary public; Exhibit "J," H. F. Burket, notary public; Exhibit "K," H. F.

Burket, notary public, and tell, if you can, in whose handwriting they are.

Objected to by defendants' att'y.

Answer. I think the most of them are Joseph Hastings' handwriting.

19th question. Which ones are in his handwriting?

Objected to by defendants' att'y.

Answer. I did not look them all over carefully, but I think they are all his signatures.

20 question. How long had you been in the habit of receiving letters from Joseph Hastings?

Answer. Well, I never received very many myself, but father got them and I would read them. We have received letters for some years, but not so many of late years.

Answer objected to by defendants' attorney.

21 question. What, if any other, papers have you seen that were written by Joseph Hastings?

Answer. I never saw very many.

22 question. What, if any, comparison have you made of these letters with the writings you knew were made by Joseph Hastings?

Objected to by defendants' attorney.

Answer. I compared them with letters he wrote to us.

23 question. State whether or not you consider yourself able to tell his writing when you see it.

Objected to by defendants' att'y.

Answer. Yes, sir.

24th question. You may look at the paper marked Exhibit "A," H. F. Burket, notary public, and tell, if you can, in
78 whose handwriting it is.

Objected to by defendants' attorney, M. C. Whitely.

Answer. I think it is Mr. Hastings'.

25th question. You may look at the paper marked Exhibit "B," H. F. Burket, notary public, and tell, if you can, in whose handwriting it is.

Objected to by defendants' att'y, M. C. Whitely.

Answer. I think that is Mr. Joseph Hastings', too.

26th question. You may look carefully at the papers marked Exhibit "C," H. F. Burket, notary public; Exhibit "D," H. F. Burket, notary public; Exhibit "E," H. F. Burket, notary public; Exhibit "F," H. F. Burket, notary public; Exhibit "G," H. F. Burket, notary public; Exhibit "H," H. F. Burket, notary public; Exhibit "I," H. F. Burket, notary public; Exhibit "J," H. F. Burket, notary public; Exhibit "K," H. F. Burket, notary public, and state, if you can, in whose handwriting they or any of them are.

Objected to by M. C. Whitely, defendants' att'y.

Answer. I think they are in Mr. Joseph Hastings' writing.

27th question. You may look at the letter dated December 14th, 1875, and marked for identification Exhibit "N," H. F. Burket, notary public, and the paper dated Findlay, Ohio, December 27th, 1875, and marked for identification Exhibit "O," H. F. Burket, notary public, and tell me, if you can, in whose handwriting they or either of them are.

Objected to by defendants' attorney.

Answer. Joseph Hastings' handwrite.

28th question. You may look at the paper dated Findlay, O., November 27th, 1876, and marked for identification Exhibit
79 "C," H. F. Burket, notary public, and at the letter dated Findlay, Ohio, December, 1876, and marked for identification Exhibit "Q," H. F. Burket, notary public, and tell me, if you can, in whose handwriting they or either of them are.

Objected to by defendants' attorney.

Answer. I think it is Mr. Joseph Hastings' write.

29th question. You may look at the letter dated Findlay, Ohio, July 3rd, 1877, and marked for identification Exhibit "R," H. F. Burket, notary public, and at the letter dated Findlay, Ohio, March 11, 1879, and marked for identification Exhibit "S," H. F. Burket, notary public, and at the letter dated Findlay, Ohio, September 15th, 1879, and marked for identification Exhibit "T," H. F. Burket, notary public, and at the letter dated Findlay, Ohio, May 14th, 1879, and marked for identification Exhibit "U," H. F. Burket, notary public, and at the letter dated Findlay, Ohio, September 6th, 1879, and marked for identification Exhibit "V," H. F. Burket, notary public, and at the letter dated October 9th, 1879, and marked for identification Exhibit "W," H. F. Burket, notary public, and at the letter dated October 21st, 1879, and marked for identification Exhibit "X," H. F. Burket, notary public, and state, if you can, in whose handwriting they, each, any, or all of them, are.

Objected to by defendants' attorney.

Answer. I think they are all in Mr. Hastings' writing.

THURSDAY MORNING, *April 28th*, 1887.

The parties being present, the taking of depositions was resumed as follows:

It is hereby agreed by the attorneys of both sides that the further taking of testimony of Matthew Alexander is deferred until after the examination of Aaron Howard.

BAKER, SMITH AND BAKER,
Sol's for Compl.
M. C. WHITELY, *Attorney for Def'ts.*

80 AARON HOWARD, being duly sworn, testified as follows:

1st Q. State your name, age, residence, and occupation.

A. My name is Aaron Howard; age, sixty-five; residence, Findlay; occupation, nothing now in particular.

2d Q. Were you acquainted with Joseph Hastings; and, if so, how long had you known him?

A. I was. I have known him about ten years.

3d Q. State whether or not you ever heard him say he was loaning money for some one away from here.

A. Yes, sir. My brother William was owing Mr. Hastings some money which he borrowed; don't know exact amount; I don't know; William requested me to see Mr. Hastings and have him wait until he came from Columbus; I done so; I saw him; Mr. Hastings said he must have the money, as it belonged to Eastern parties and they wanted their money, and he would have to sue it if he didn't come and pay it immediately; he did sue it and I paid $103.00 on the judgment.

4th Q. When was this?

A. It was in December, 1884, or January, 1885.

5th Q. When was this you paid?

A. I paid him Apr. 8, 1885, to Squire Barwel.

6th Q. State whether or not you had any conversation with Joseph Hastings immediately preceding the payment of this money.

A. Yes, sir.

7th Q. What was that conversation?

A. Well, I wanted Mr. Hastings to be lenient with me, as he (William, my brother) was hard up, and I wanted him to wait on me. He said if it was his own money he would do so, but it (the money) belonged to Eastern parties and they were urging him to collect the money.

8th Q. What, if anything, was said about interest?

A. I told him I was ready to pay the $100.00 that I owed William; he told me that a little understanding between himself that
81 probably would not be satisfactory.

9 Q. How did you come to make the payment?

A. I had the money and paid it in on the judgment to Squire Bord and took his receipt for it.

10 Q. Have you that receipt with you?

A. I have, and hand it to the notary to be attached hereto and marked Exhibit "Y." H. F. Burket, notary public.

11 Q. State whether or not Mr. Hastings told you the name of the person for whom he was loaning money.

A. He did not.

12 Q. Do you remember the amount of the judgment recovered by Hastings by your brother?

A. I do not.

AARON HOWARD.

MATTHEW ALEXANDER, being recalled, as per above agreement, testified as follows:

1st Q. Have you in your possession any papers that you know are in the handwriting of Joseph Hastings?

A. Yes, sir.

2d Q. Have you them with you?

A. Yes, sir; I have.

3d Q. What are they?

A. They are letters he wrote to my father.

4 Q. Will you hand them to the notary to be attached to your deposition?

They are hereby handed to notary, H. F. Burket, notary public, and marked Exhibit "Z" and "A*a*" and "B*b*."

5 Q. State whether or not these are the letters you speak of having compared with the letters already referred to in your deposition.

A. Yes, sir; they are.

Cross-examined by M. C. WHITELEY, for the defense:

1 Q. How do you know that Joseph Hastings wrote the letters you now produce?

A. Well, it is his handwriting, and must certainly be written to him by my father.

2d Q. Were you acquainted with the handwriting of Joseph Hastings in 1869 and 1870?

82 A. I read a good many letters from him off and on and other times, too.

3d Q. Is that all the means you had of knowing his handwriting at those dates?

A. Yes, sir.

4 Q. How do you know that Mr. Hastings wrote the letters that you say were sent to your father and which you read?

A. It certainly was his handwrite, as no one else wrote like him.

5 Q. Tell us how you know that they were in his handwriting.

A. He didn't get no letters from any of the rest of the family, and he must have wrote them.

6 Q. Did you ever see Joseph Hastings write a letter or anything else in his lifetime?

A. I have seen him write several different times.

7 Q. What did you ever see him write?

A. Well, I couldn't just say now; it has been a good spell ago; I have seen him writing.

8 Q. Did you ever read any of his writing after you had seen him write; and, if so, what was it?

A. I don't know; I have seen lots of men write, but I never read any of their writing just after they wrote it.

9 Q. Did Joseph Hastings ever show you his writing and say that he had done it?

A. I don't know as he did.

10 Q. Who received these letters that you now produce?

A. My father.

11 Q. How did you know that they came from Joseph Hastings?

A. Well, they must have come from him, as I don't think they came from any of the rest of the family.

12 Q. Where did you see Mr. Hastings write previously to 1870?

A. I think he wrote some at our house.

13 Q. Do you know that he wrote anything at your house?
A. I think he did.
14 Q. What was it?
A. Why, I don't know what you would call it. I- was a
83 paper he wrote for a girl; it was between our folks and the girl who was going to leave.
15 Q. Was that before or after he moved to Hancock county?
A. Before, I think.
16 Q. Did you read that paper?
A. I did at the time, but I couldn't tell what was on the paper now.
17 Q. Did Mr. Hastings write them exactly like he wrote the fall before his death?
A. Well, I reckon there was but very little difference.
18 Q. Had you seen him write any before that time?
A. I think I had.
19 Q. Where was that done?
—. ——.
20 Q. Where was that done?
A. At his house in Richland county.
21 Q. When was that?
A. Well, I couldn't just state the year now, but it was along in the fall of the year, I know.
22 Q. What did he write?
A. He was squire and it was business he had to attend to; I could not state now what it was, of course.
23 Q. Did you read what he then wrote?
A. I don't mind as I read it; I set down side of him and seen him write it; I might have read it afterwards, for all I know.
24th Q. Do you say you did or did not read it?
A. I could not state that now.
25 Q. What was the writing about?
A. Well, I could not tell you what it was about; he was writing in some business.
26 Q. As you cannot remember what the writing was about, how can you say it was about business?
A. Why, as parties came in he would tend to their business for them.
27 Q. Can you say upon your oath that you saw or read a single word that was written by Mr. Hastings at that time?
84 A. Yes, sir; I can.
28 Q. Did you simply see him write or did you see the writing done by him that day?
A. I saw him writing. I saw part of his writing that day.
29 Q. Could you identify now the writing done that day if it were presented to you?
A. That would be hard to tell. If I knew the day and date it would be different.
30 Q. When was that writing done—that is, in what year?
A. Well, I can't tell in what year it was in now. I am not able to swear.

31 Q. Was it a long time or a short time ago?

A. It has been several years ago.

32 Q. Was it before or after Hastings moved to Hancock county?

A. It was before he moved here.

33 Q. In what year did Mr. Hastings move to Hancock county?

A. It must have been 1874 or 1875; I don't know which.

34 Q. What — Mr. Hastings' age when he moved to Hancock county?

A. Well, I couldn't just tell you.

35 Q. Was he an old man or a young man at that time?

A. I would call him an old man, of course.

36 Q. About how old?

A. I would judge he was 65, anyway.

37 Q. Repeat what Mr. Hastings told you about loaning money.

A. He never said much about it to me.

38 Q. Did he ever tell you anything at any time about loaning money for any person?

A. No, sir.

39 Q. You say in your examination-in-chief that you compared the letters shown you here with letters written by Hastings to us. Now, where did Hastings reside when those letters were received and where did you reside at that time?

A. He lived in Richland county and I lived out north here in this county.

85 40 Q. Did you ever receive a letter from Mr. Hastings at any time?

A. No, sir; I think not.

41 Q. Who received the two letters brought here to-day by you and when were they received?

A. Peter Alexander received them. They were received in '69 & '70.

42 Q. How do you know that Peter Alexander received them?

A. They were written to him.

43 Q. How do you know that Peter Alexander received those letters?

A. Because they were written to him and he go- them. That is true enough or they would not have been here.

44 Q. How do you know that Mr. Hastings wrote the letters that you say Peter Alexander got?

A. I know it by seeing his handwriting before in other letters.

45. Had you seen any more of his handwriting than what you say you saw him write in Richland county and the paper he wrote about the girl in Hancock county?

A. No, sir; I don't think I did.

46 Q. Who was present when you compared the letters spoken of in your examination-in-chief with the letters now shown?

A. Myself, my father, and Mr. Dillman.

47 Q. State who brought the letters to your house that were compared by you, as you state in your examination-in-chief.

A. Mr. Dillman brought them there.

48 Q. Who took them away?

A. He did, of course.

49 Q. How many did you compare?

A. Eighteen or twenty; I do not know.

50 Q. Can you say that the letters shown you on your examination-in-chief are the same that you compared?

A. Yes, sir.

51 Q. How long were you engaged in making the comparison?

A. O, a couple of hours.

52 Q. Did you put any marks on *any of* the letters or any of them for the purpose of identification if you should see them again?

A. No, sir; I did not.

53 Q. Were all of the letters shown to you signed by Mr. Hastings?

86 A. Yes, sir.

54 Q. Was any letters shown to you that had no signature?

A. No, sir.

55 Q. Did you or not compare all the letters brought to you by Dillman?

A. No; I think not.

56 Q. If you did not compare all, then how can you say that Hastings wrote the ones you did not compare?

A. The signatures were all about the same.

57 Q. Did you examine the signatures of those you did not compare?

A. I examined them here yesterday.

58 Q. Did you at your house at the time Dillman was there?

A. No; not all of them, I do not think.

59 Q. What part did Mr. Dillman take when you were making the comparison and what did he do and say at that time?

A. He didn't take very much part; he showed me the letters and wanted to know if we had any to compare with them. He said he would like to straighten up and get his things fixed up.

60 Q. What did he say about the comparison and what did he do in reference to pointing out similarity of handwriting?

A. He said signatures were about all the same, and said the writings were about the same.

61 Q. How often has Mr. Dillman talked to you about these letters?

A. Two or three times.

62 Q. When was he last at your house?

A. Last Friday night.

63 Q. How long did he stay?

A. He stayed over night.

64 Q. Was these letters the subject of conversation generally while he was there?

A. Not all the time; no.

65 Q. Do you know Cran. Watson?

A. Yes, sir.

66 Q. How often has he — with you about the matters about Dillman and Hastings?

A. Mr. Watson fetched Mr. Dillman out there, but he didn't say anything to me about the business.

87 67 Q. Has he ever talked to you about the matter?

A. No, sir.

68 Q. Look at the clock here in the court-room and say what time it is.

A. About ten minutes till three.

69 Q. I now show you a letter dated December 27, 1875, referred to by you in examination-in-chief, and ask you to read that letter aloud in as short a time as you can. Look at the clock and say what time it is now.

A. It is twenty-five minutes after three.

70 Q. Have you been making an effort to read the letter handed you since ten minutes before three o'clock?

A. I did try to read it over; yes.

71 Q. Did you read it?

A. I read a part of it, but it was blotted so I could not make it out.

72 Q. How many lines did you read.

A. I read seven (7) lines of it.

73 Q. Why don't you read the balance of the letter?

A. It is pretty hard to make out part of it.

74 Q. How did you compare those letters and what were your tests of similarity?

A. By the signatures of the letters.

75 Q. How did you compare the one that has no signature to it?

A. I did not notice any but what had.

76 Q. Did you compare any other parts except the signatures?

A. No, sir.

77 Q. Did you not assume that because J. Hastings was signed to those letters that therefore they had been written by him?

A. I supposed he had wrote them because his signature was to the letter.

78 Q. Can you read any of the other letters referred to by you in your examination-in-chief any more readily than the one just shown you?

A. No, sir; I cannot.

88 79 Q. Is it not a fact that the only reason why you think the letters were written by Mr. Hastings is that you see J. Hastings signed to them?

A. No, sir.

80 Q. State why you think the letters were written by Mr. Hastings.

A. Because I think he was doing business for himself, and he wrote for himself.

81 Q. Is that the only reason you have for thinking so?

A. No, sir.

82 Q. What other reason have you?

A. Well, I don't know as I have any other reason now.

83 Q. State how frequently you and Mr. Joseph Hastings met in conversation for the last ten years.

A. I could not hardly tell that. We met a good many times.

84 Q. Were you and Mr. Hastings on intimate terms of friendship during last ten years of his life?

A. As far as I know, he always talked to me as well as he ever did.

85 Q. What were the relations between you—confidential or merely passing acquaintance?

A. He was an uncle of mine. I do not know as I was more intimate with him than with my other uncles.

86 Q. Were your relations any more confidential than existed between you and other neighbors?

A. No, sir.

87 Q. How frequently did you visit Mr. Hastings at his house during the fall and winter previous to his death?

A. I was there three or four times.

88 Q. How often during his last sickness?

A. Twice.

89 Q. Who had possession of the ten letters shown here to-day at the time Dillman came to Peter Alexander's house to have the comparison made?

Objected to by plaintiff.

A. They were in the house, and I do not know if Peter Alexander had any more possession of them than I had.

90 Q. Who brought them out to have the comparison made?

89 A. I did myself.

91 Q. Where did you get them?

A. They were in a box with a parcel of other letters.

92 Q. Were there any other letters in that box signed J. Hastings which you have not brought here to-day?

A. If there was I overlooked them and did not see them.

93 Q. Are you married or unmarried?

A. I am unmarried; my wife is dead.

94 Q. With whom do you reside?

A. I stay at home with my father and mother.

Redirect examination by the plaintiff's att'y, Mr. BAKER:

1 Q. Those letters you bring in to-day as having been received by your father from Joseph Hastings—state whether or not he received them shortly after their date.

A. Yes, sir; he did.

2 Q. At the time the letters were brought to your house last Friday by Mr. Dillman did you all engage in conversation in regard to them?

A. Yes, sir.

3d Q. When you were reading the letter in your cross-examination—state whether or not you read it or most of it over to yourself before attempting to read it out loud.

A. I did, what I could make out.

4th Q. In attempting to read it aloud—state whether Mr. Whiteley insisted on your reading every word, and when you reached a word

that you could not make out he insisted on your not going any further until that word was made out.

A. Yes; he insisted — my reading it all.

5th Q. State what Mr. Hastings said to you, if anything, about Mr. Dillman.

Objected to by defendants.

A. He spoke about him frequently.

6 Q. State whether or not you are able to read writing.

A. Yes, sir; when it ain't writ too badly.

90 7 Q. Where have these letters that you brought in to-day been since you received them in 1869 and 1870?

A. They have been at home, in the house.

Recross-examined by the defendants:

1 Q. Did you live at home with your father, Peter Alexander, in years 1869 and 1870?

A. Yes, sir.

2 Q. Did you live at home with your father during the lifetime of your wife?

A. Yes, sir; I did.

3 Q. Did you receive the letters or did your father, Peter Alexander, receive them?

A. My father received them.

4 Q. Look at a page (No. 22, second page) of the testimony written by the notary in taking these depositions and say whether you can read it or not.

Objected to by plaintiff's attorney.

A. I could make it out by looking over it once.

5 Q. Can you take up the page of writing referred to and read it through, aloud?

A. I could not unless I would read it over a time or two, and then I could read it aloud.

6 Q. Why do you think you could read it at all if you can't when you look at it?

A. There are so many funny words and letters in it, and as I have not been reading much writing lately I have got out of practice.

7 Q. At what time of your life have you had much practice reading or examining writing?

A. I used to read different writing right smart when I went to school.

8 Q. How long has it been since you were at school?

A. About twenty years.

MATTHEW M. ALEXANDER.

MATTHEW M. ALEXANDER, SR., being duly sworn, testified as follows:

91 1 Q. State your name, age, occupation, and place of residence.

A. My name is Matthew M. Alexander; I live in Rasiowski county, Indiana; am 65 years old, and am running a saw and grist mill.

2 Q. State whether or not you were acquainted with Joseph Hastings; and, if so, how long you had known him.

A. I have known Squire Joseph Hastings for 40 years.

3 Q. State whether or not you are acquainted with the handwriting of Joseph Hastings.

A. I think I am. I have received a right smart of letters from him.

4 Q. What other means, if any, have you had of becoming acquainted with his writing?

A. My father before his death appointed Mr. Hastings and myself to settle up the estate, and I saw him write notes and other writing.

5 Q. State whether or not you were acquainted with his signature.

A. Yes; I think I am. I have seen it a good many times.

6 Q. Have you ever seen him write?

A. Yes, sir; I have seen him writes notes, &c.

7 Q. You may look at the papers I hand you, marked by the letters of the alphabet Exhibit "A," &c., down to and including "K," and from "N" down to and including "X," and tell me, if you can, in whose handwriting they are.

Objected to by defendants' attorney.

A. It seems to me to be Mr. Hastings' writing. I cannot see any change in the writing from that in the letters he has sent me.

Cross-examined by defendants' attorney:

1 Q. How long has it been since you received a letter from Mr. Hastings?

A. I don't recollect. I think, probably, 1½ years before his
92 death—maybe longer.

2 Q. When did you receive one before that?

A. I could not tell. I had received a good many after he had moved to this county from Richland county.

3 Q. Did you answer any letters that he wrote to you?

A. Yes, sir.

4 Q. How long since you answered any?

A. I do not recollect. It must have been 3 or 4 years, the last letter I wrote him, and he never answered it.

5 Q. How long have you resided in Indiana?

A. I have lived there 22 years.

6 Q. How often have you seen Mr. Joseph Hastings since you moved to Indiana?

A. Well, several times. I think eight or ten times—maybe oftener.

7 Q. How often have you seen him since Hastings moved to Hancock county?

A. I think I have seen him three or four different times since then.

8 Q. How long has it been since you saw him?
A. I think I saw him in 1884 or 1885, in Claypool, Indiana.
9 Q. Did you converse with him there?
A. I did.
10 Q. How long ago was it that you and Mr. Hastings settled your father's estate?
A. I think it was in 1863.
11 Q. How often have you seen Mr. Hastings write since that estate was closed?
A. I have not seen him write since then, that I recollect of.
12 Q. How far have — resided apart since you went to Indiana?
A. I don't know; about 100 miles, I think.
13 Q. How did you come to be here at this time?
A. I came to see my brother here—to pay him a visit.
14 Q. Had you any information or knowledge before you came here that your testimony was needed in this case?
A. I had not, sir.
93 15 Q. Had you inspected the letters which have been shown you here on your examination at any time before to-day; and, if so, who showed them to you?
A. I have not, sir.
16 Q. Had you never seen these letters until they had been shown to you on this examination?
A. Yes.
17 Q. When & where?
A. This afternoon, in the next room there.
18 Q. Who showed them to you?
A. This gentleman here (referring to Mr. Dillman).
19 Q. What reference did he make to any resemblance between these letters and other writings of Joseph Hastings?
A. He did not make any.
20 Q. What did he say he was showing them to you for?
A. Well, he didn't say for any purpose, except to see if I would recognize the writing; that is what I understood.
21 Q. How do you know that Joseph Hastings wrote the letters that you say you received since you located in Indiana?
A. I do not know, except by the writing and form of writing and his name to them.
22 Q. If his name had not been to the letters would you have known from whom they came?
A. I believe I would by the peculiar way of making his letters and writing.
23 Q. Were those letters received by you in Indiana written with a pen or pencil?
A. Mostly pencil.
24 Q. Did Joseph Hastings write a running hand or a round hand?
A. I took it for a running hand the way he sloped his letters.
25 Q. In what sort of a hand were — written which you received?
A. Such as these here. I could not tell the difference.

26 Q. In what sort of a hand were the letters written which you received in Indiana?

A. I took it for a running hand.

Re-examined by plaintiff:

94 1 Q. Over how long a period did your correspondence with Mr. Hastings cover?

A. At different times for thirty years.

2 Q. State whether or not the letters that you received from him in Indiana corresponded in handwriting with papers you saw Mr. Hastings write yourself.

A. I think they did.

Recross-examined by defendants' attorney:

1 Q. Did you have any correspondence with Mr. Hastings by letter before you moved to the State of Indiana?

A. I don't know as I did; we live four or five miles apart.

2 Q. Have you seen him write since you moved to the State of Indiana?

Objected to by plaintiff's attorney.

A. I declare I do not recollect as I have. I may at different times, but I have no recollection of it.

3 Q. Have you seen or had any paper-writing or letter in your possession since you went to State — Indiana that was acknowledged to you by Mr. Hastings to be his handwriting?

Objected to by plaintiff's attorney.

A. No; but I took it to be his handwriting and thought them his letters by questions that was in the letters.

The further taking of these depositions is adjourned until to-morrow morning, Friday, April 29th, 1887, at nine o'clock a. m.

FRIDAY MORNING, *April 29th*, 1887.

The parties being present, the taking of depositions was resumed as follows:

WILLIAM HOWARD, being duly sworn, testifies as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is William Howard; occupation is farmer; residence is in Findlay, Ohio, and age is fifty-four years.

95 2 Q. What has been your occupation previous to farming?

A. I taught school in the winter and farmed in the summer up to the last ten years.

3 Q. Were you acquainted with Joseph Hastings; and, if so, for how long a time?

A. Yes, sir; I was acquainted with him since 1877.

4 Q. Tell me whether or not you ever borrowed any money of him?

A. Yes, sir; at ten different times.

5 Q. When was this?

A. I borrowed of him in 1877 between $300 and $400; almost $400.00; went to get $400.00, but did not get quite that amount. The second time I got about $190.00, which was about the year 1884.

6 Q. What interest, if any, did you pay him on these loans?

A. Well, sir, on the first note I paid him ten per cent. interest, and he took it out in advance. He took ten per cent. out and put eight per cent. in the note. Also, in the second note, I paid him one year's interest, and then he put the note in Barnd's (Squire) hands, and then I refused to pay him ten per cent. interest, but paid eight per cent. compound interest.

7 Q. Which note was it that was put in Squire Barnd's hands for collection?

A. The last note, which was the note for one hundred and ninety-odd dollars.

8 Q. Who, if any one, signed this last note with you?

A. Yes, sir; my brother, Samuel Howard, signed it with me.

9 Q. Look at the note I now hand you and tell whether it is the note you refer to as being the last note you gave.

A. Yes, sir; that is the note.

(It is hereby marked Exhibit "Cc" and attached to these depositions.)

10 Q. Your brother, Aaron Howard, testifies that he went
96 to Mr. Hastings to pay him something on a note of yours and Samuel Howard, and that he told him that he (Hastings) had an agreement with you in regard to it. Tell us whether or not this is the note he referred to and what that agreement was.

Objected to by defendants' att'y.

A. Yes, sir; I never gave Mr. Hastings 2 notes, and this is the note I gave money to apply on it. The agreement was to pay ten per cent. interest on it annually.

11 Q. Now, in regard to the first note, tell us how much, if any, interest you paid on it.

A. Yes, sir; I paid him ten per cent. interest on that; he took ten per cent. out when I drew the note, and it drawed eight per cent.

12 Q. How was the interest payable—annually or semi-annually?

A. Annual.

13 Q. Did you pay the interest promptly when it became due?

A. That money I only kept about a year, when I paid interest and principal.

14 Q. Are those notes now both paid?

A. Yes, sir.

15 Q. State whether or not Mr. Hastings ever said to you anything about this money he loaned to you belonging to any one else than himself; and, if so, what did he say?

A. Yes, sir; when he called on me for the interest on this last note I was pretty hard up and not as prompt in paying the interest as I should have been. He told me the money belonged to an Eastern party and I must get it.

16 Q. Are you acquainted with the handwriting of Joseph Hastings?

A. Yes, sir; I have seen his writing frequently and was at his house and saw him write. He wrote that note, Exhibit "Cc," and he wrote my other note, the one I gave previous to this.

97 17 Q. Did you or did you not see him write that note, Exhibit "Cc"?

A. Yes, sir; I saw him write that note.

18 Q. Are you sufficiently acquainted with the handwriting of Joseph Hastings to tell whether or not papers written on are written *are* in his handwriting or not?

A. Well, sir, I think I could identify his handwriting. I am a pretty close observer of writing. He wrote more than an ordinary hand for his age is the reason my attention was called to his writing.

19 Q. You may look at the papers I hand you, marked Exhibit A, H. F. Burket, notary public, and likewise by the several letters of the alphabet down to and including "K" and from "N" down to and including "X," and tell, if you can, in whose handwriting each, any, or all of them are.

Objected to by defendants' attorney.

A. I think, to the best of my knowledge, they are all one man's writing, and I would say, to the best of my knowledge, that they are Mr. Hastings' writing.

Cross-examined by defendants' attorney:

1 Q. How long has it been since you taught school?

A. I taught my last term three years ago last winter.

2 Q. When the term preceding that?

A. I taught the winter before that.

3 Q. How long did you keep the money obtained on the second note?

A. I got the money in 1880. I was mistaken when I said I got it in 1884. This is the second note. (Refers to Exhibit "Cc.") I paid it in April or May, 1886.

4 Q. How often did you pay interest on that note?

A. I did not pay any interest on it till I paid it off. My father paid the first payment and I payed the rest when I cleaned up the note.

98 5 Q. You say in your examination-in-chief that the interest on the second note was compounded?

A. Yes, sir.

6 Q. Please explain how that was done.

A. Mr. Barnd counted up the interest for the first year and added to it the principal and made that principal for the second year, and so on, adding the interest to it annually.

7 Q. Was you present when the computation was made by Justice Barnd?

A. Yes, sir; and he desired me to figure it over or have my brother figure it over; either one.

8 Q. How much did you pay on the judgment?

A. My brother paid $103.00 and I think I paid about $160.00.

9 Q. Can you state how much you paid?

A. Yes, sir. I paid $160.00, I think, to Mr. Barnds.

10 Q. How often have you ever seen Joseph Hastings write?.

A. I could not tell you exactly, how many times. He wrote those two notes of mine and I saw him write them. He wrote a letter to my brother once when he was treasurer.

11 Q. What did he write at these several times you saw him write?

A. He wrote them two notes. He wrote a letter to my brother, which I saw him write, and figure- up the amount on my first note; it was a mortgage note. I can't say positive that I saw him any more.

12 Q. What else do you think you saw him write?

A. It occurs to my mind, although I am not positive, that he wrote a letter and sent it by me to McComb to put in for Mr. Priest.

13 Q. Did you examine the writing of the letter you say he wrote to your brother and the probable letter to Priest at McComb?

A. I examined the writing of the letter to my brother in the treasurer's office. He opened it and I read it and examined
99 the writing then. I did not examine or open the letter to Mr. Priest.

14 Q. How long ago was that?

A. It was in the spring of 1880 that I took Mr. Priest's letter, and I think it was the fall of 1882 that I read the letter to my brother.

15 Q. Where did you deliver that letter to your brother?

A. In the treasurer's office.

16 Q. What time of the day?

A. It was about 4 o'clock.

17 Q. How did you come to read that letter?

A. He laid it on the desk when he had read it and it was open, and I picked it up and looked at it and read it.

18 Q. What was your object in reading that letter?

A. I had no particular object, only he had made a demand for money as interest, and I read it through and laid it down.

19 Q. Did you read that letter merely to see what was in it or for the purpose of fixing in your mind the style of Mr. Hastings' writing?

A. Well, sir, I don't know as I read it to fix in my mind his style of writing, but I had a curiosity to see what the old gentleman wanted.

20 Q. State whether you have seen the letters shown you here in your examination before they were shown you here to-day.

A. Yes, sir.

21 Q. When?

A. I saw them about a week ago, I guess.

22 Q. Who showed them to you?

A. That second gentleman there (referring to Mr. Dillman).

23 Q. Where?

A. I was working on the farm west of Mr. Byals.

24 Q. How many did you examine?

A. I examined three or four; I don't remember just how many.

25 Q. How long were you engaged in the examination?

100 A. Probably ten minutes.

26 Q. Who assisted in making the examination?

A. No person assisted me. He (Mr. Dillman) handed them to me and I examined them myself.

27 Q. Did you have the note marked Exhibit "Cc" with you at the time and did you then compare it with the letters thus shown you?

A. No, sir; I did not have it with me. I never saw it then at all at that time.

28 Q. Were those letters that you examined at this time written with a pencil or pen?

A. They were written some with a pen and some with a pencil.

29 Q. Did you at any other time, and, if so, when, examine the letters shown you there to-day or any of them?

A. Yes, sir; I saw some of them last evening.

30 Q. How many?

A. I could not tell just the number—probably six, probably more, maybe less.

31 Q. At whose instance did you examine them?

A. This gentleman here (referring to Mr. Dillman).

32 Q. How were the notes written that you gave Hastings—in pencil or in pen and ink?

A. With pen and ink.

33 Q. How was the letter written to your brother?

A. With pen and ink.

34 Q. Did you ever see Hastings write anything with a pencil?

A. I never did, only to figure up the interest on my first note in Mr. Dunn's office.

35 Q. How often have you ever seen Mr. Hastings write his name?

A. I saw him write those two notes and the letter to my brother to which he signed his name.

36 Q. How often did you ever see Mr. Hastings sign his name to any paper?

A. He signed his name to that letter to my brother; that

101 is all I remember except to sign his name to a release on a mortgage on my farm when I paid it off in Mr. Dunn's office.

37 Q. How did he write his signature?

A. Joseph Hastings.

38 Q. Did you ever see him sign his name in any other way except as Joseph Hastings?

A. I don't remember that I did.

40 Q. Did you find in the lot of letters presented to you for inspection by Dillman any letter not signed by anybody?

A. I did not that I know of. They might have been, but I did not examine more than five or six of them at that time.

41 Q. In examining those letters shown you in your examination did you compare them with the writing in the note, Exhibit "C;" and, if so, did that comparison have any influence in determining your opinion about who wrote the letters?

A. It had no influence, as it is my belief that Mr. Hastings wrote them letters from the acquaintance I have of his handwriting. This note I have not seen for a year until I saw it here on this table.

42 Q. Leaving out the ten notes spoken of by you, had you any means of knowledge of the handwriting of Joseph Hastings other than the letter written to your brother that you have spoken of?

A. Nothing except his release of a mortgage and the backing of a letter to Mr. Priest.

43 Q. Did he write the release of the mortgage or did he merely sign the release?

A. He just signed his name to the release.

44 Q. Are you sure you saw Mr. Hastings write a letter to Mr. Priest or address a letter to Mr. Priest, or that you carried a letter to Mr. Priest?

A. To the best of my knowledge I carried that letter to McComb for Mr. Priest and put it in the office.

102 45 Q. Did you see the writing in that letter, and did you see Mr. Hastings write the address on that letter?

A. No, sir; I did not see the writing in that letter. He was writing at the desk and came and handed me that letter and told me to leave it at McComb for Mr. Priest.

46 Q. Where was you when he was writing at the desk?

A. I was inside of the door—standing at the front door.

47 Q. How far was Mr. Hastings from you when you saw him write that letter?

A. It was quite a distance to the stand on the north side where he wrote it.

48 Q. Did you see him write the address on the letter?

A. No, sir; I did not see him write the address, but I saw him writing and fold the letter up and bring it to me. There was no one else there.

49 Q. Are you willing to swear that the letter handed you contained the writing done by Mr. Hastings at the desk?

A. I could not say it was positively, as he came quite a distance, and he might have changed them, but I don't think he did.

50 Q. Are you willing to swear that the letter handed you by Mr. Hastings was the one that you say he was writing at the desk?

A. To the best of my knowledge it was.

51 Q. In what business have you been engaged in for the last ten years?

A. I have been farming in the summers and school-teaching in the winter times up to the last two years previous to last June, when I was guard in the penitentiary.

52 Q. After examining the letters shown you here to-day and the

note, Exhibit "Cc," which you say Mr. Hastings wrote, do
103 you say there is any similarity between them?
A. Yes, sir.

Redirect examination by plaintiff:

1 Q. Was the judgment on the last note paid before or after Mr. Hastings' death?

A. I do not know when Mr. Hastings died. The note was paid in April or May, 1885.

2 Q. What official position, if any, did your brother occupy when you delivered the letter to him from Mr. Hastings?

A. He was county treasurer.

3 Q. You state in your cross-examination that you paid the money to the justice, amounting to about $160.00; are you sure of this amount, or might it have been $180.00?

A. It might have been $103.00, and Barnd figured it out, and I think it was $160.00; it may have been $180.00; whatever he demanded of me I paid, and he deposited it in the bank.

WILLIAM HOWARD.

RUFUS FELLERS, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Rufus Fellers; age, 51; clerk in business store, Findlay township.

2 Q. State whether or not you were acquainted with Joseph Hastings; and, if so, how long.

A. I have had more or less acquaintance with him since 1879, and knew him by sight for some years before that.

3 Q. State whether or not you ever had any money transactions with him; and, if so, give the circumstances of the same.

A. I borrowed $700.00 of Mr. Hastings in Oct., 1879—that is, bargained for the $700.00, and was to have it by a certain time.
104 Our place was under the hammer and I was to have it to pay that off. It had been sold by the sheriff and I had it bid in, and the money that I was to get of Mr. Hastings for some cause did not come. He told me he was getting the money from the East—from some party there—and then the place was readvertised again when the money did not come in time, and after it was readvertised just a few days—how many I can't say—the money came. At the time, according to advertisement, I had it bid in again; my wife bid it in herself and Mr. Hastings held the money from the time it came until it was readvertised—till I paid it over to the sheriff—by me paying him ten per cent. interest from the time it came until I needed it.

Answer objected to by defendants' attorney.

4 Q. What, if any, interest did you pay for the money you borrowed from Mr. Hastings?

A. I paid him ten per cent. the first year, after which I paid him eight per cent. the last year when he sued it. I suppose it was a lawful interest.

5 Q. What, if anything, did he say to you about where he got the money?

A. He said he was getting the money from the East from some person. I don't know as he told me who from.

6 Q. What was the gross amount you borrowed from him?

A. I borrowed $700.00 from him.

7 Q. And for what purpose did you borrow it?

A. To pay the sheriff—to pay the claim off that was held against our place.

8 Q. What was the date of it (of the loan)?

A. I think note was given in latter part of 1879.

9 Q. And how long a time, if any, did he hold the money after he received it and before he paid it over to you?

105 A. He held it as long as the law allows the sheriff to advertize property to sell it.

10 Q. And did you or did you not pay him interest for that time?

A. Yes, sir; I paid him for the time — held the money.

Cross-examined by defendants' attorney:

1 Q. You answer that Mr. Hastings said he was getting the money from the East. Now, did he say person or persons, party or parties, East?

A. My recollection is that he was getting it from some one in the East. I could not say whether he used words person or persons. I remember he said as a reason for money not coming that probably he was not at home and did not get the letter.

RUFUS FELLERS.

ABRAHAM TEATSORTH, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Abraham Teatsorth; residence, Findlay, O.; occupation at present time is teaming, and my age is 55 years.

2 Q. What has been your occupation for the last ten years?

A. I have, part of time, farmed and part of time have had a grist-mill in charge.

3 Q. Were you acquainted with Joseph Hastings; and, if so, how long?

A. I became acquainted with him about 1870.

4 Q. What, if any, money transactions did you ever have with him?

A. Well, my brother and father had money of him and it fell into my hands to settle it up. I paid him the money in 1881. When I paid it I fell short $220.00; consequently reborrowed of him $220.00 of him again.

5 Q. In what way did the loan your father and brother make of him fall into your hands for settlement?

106 A. My father died, having mortgaged his farm for security for the money, my brother having borrowed it. I was executor of my father's estate.

6 Q. What was the amount of the loan your brother and father made of him?

A. The first one was $800. There was two loans—first about 1876, in May. Then the other was made in the spring of 1878, which was $700.00. I am not positive which was made first, but think it was the $800.00 loan.

7 Q. What, if any, interest do you know of having been paid on these two notes?

A. The interest was ten per cent, and was paid.

8 Q. When, if ever, were those notes paid?

A. The notes were paid May 5th, 1881.

9 Q. And is that the time you speak of as having borrowed $220.00 of Hastings yourself?

A. Yes, sir.

10 Q. What, if any, interest did you pay to him on that note?

A. I think I paid him ten per cent. interest on it.

11 Q. How long did that note run before it was paid?

A. One year from date, I believe, was the time, and it was paid then.

12 Q. What, if anything, did Joseph Hastings ever say to you about whose money this was that he was loaning to you and your brother?

A. I asked him at one time about the money and he made this reply to me: He made the remark that he didn't have the money at the present time, that he was handling a friend's money, and he would have to write to him (he lived in the East), and he thought he could accommodate me with the money in a short time. I got no money of him at that time, getting it at another--other—place.

13 Q. State whether or not you are familiar with the handwriting of Joseph Hastings.

A. I have seen considerable of his handwriting. He done considerable of writing for me. He wrote me two or three different letters before he came to the county. I worked on his farm a year is the way he come to write to me. I think I know his handwriting. I had him help me fix up my papers, accounts, &c., and he put in over a day writing for me at that time.

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14 Q. What was it he was helping you at at that time?

A. He was helping me fix up the papers of my father's estate to make a settlement with the probate judge.

15 Q. Did you see him write at that time?

A. Yes; I did.

16 Q. Are you sufficiently familiar with his handwriting to be able to recognize it if you should see it?

Objected to by defendants' attorney.

A. I think I would.

17 Q. Look at the papers I hand you, marked Exhibit "A," H. F. Burket, notary public, and by the letters of the alphabet respectively down to and including "K," and from "N" down to and including "X," and tell, if you can, whose handwriting they are.

Objected to by defendants' attorney.

A. They favor the handwriting that he done for me. I would

say the general run of the writing is like his writing and like the letters he wrote to me, and from what writing he done for me, &c., to the best of my knowledge, I would say it was his writing.

Answer objected to by defendants' attorney.

Cross-examined by defendants' attorney:

1 Q. Was you a party to the loans of 7 or $800 obtained from Mr. Hastings, spoken of in your examination-in-chief?

A. I was not.

2 Q. When did you first obtain knowledge that those loans had been made?

A. The first I knew of the first loan was a week or two afterwards, and that was the first I heard of it.

3 Q. Now, the second loan?

108 A. Can't tell exactly; don't believe I knew of it directly until after there was trouble in paying it. I think it was about the year 1880 when I got the word from Mr. Hastings.

4 Q. Were notes given for those loans, and were notes secured, and how?

A. There was. They were secured by mortgage on the farm in Union township of my father's.

5 Q. Where are those notes and mortgage now?

A. Notes are in probates office.

6 Q. Who were notes given by?

A. Notes were given by my brother- Isaac and James.

7 Q. When did you first see those notes and mortgage?

A. I think it was in the month of May, 1881.

8 Q. Before or after your brother's death?

A. It was after he died, in fall of 1880.

9 Q. What rate of interest did the notes bear upon their face?

A. I ain't positive as to that, but I know we paid 10 %.

10 Q. Do you remember what rate of interest, if any, was written in the notes?

A. I could not say as to that.

11 Q. How much interest had been paid on the notes at your father's death?

A. I could not tell that.

—. How much interest was paid on those notes after his death?

A. That I cannot tell, but the interest was all satisfactorily paid.

12 Q. What part of the principal of either of notes had been paid at your father's death?

A. There was not any paid until I paid it after his death.

13 Q. How long after his death before the notes were paid off?

A. About six months.

14 Q. How do you know what rate of interest was paid on the notes before they came into your hands?

A. My father told me, and also Mr. Hastings told me.

15 Q. What amount of interest was indorsed on the notes

109 as paid when they came into your hands?

A. I can't tell the amount.

16 Q. If you can't tell the amount endorsed on the note or when it was paid, how can you say that interest was paid at the rate of ten per cent. before the notes came into your hands?

A. Mr. Hastings told me that was the rate of interest agreed upon. I paid all that was back and all that was accrued at that rate of interest.

17 Q. Was the amount you paid for principal and interest receipted on the notes at the time you paid it?

A. It was from the fact that they were cancelled—both mortgage and notes.

— ——.

18. I suppose it was from fact that they were lifted.

19 Q. Were those notes filed as vouchers in your account with the probate court?

A. They was.

20 Q. What year did you occupy the farm of Joseph Hastings?

A. It was 1872.

21 Q. What year was it you received letters from Mr. Hastings?

A. It was in year 1872, if I am correct, in year when I lived there.

22 Q. Have you those letters now in your possession and can you produce them now before the notary?

A. That I cannot tell.

23 Q. How many were there?

A. I could not tell the number; probably three or four.

24 Q. Can you give the dates of any of those letters?

A. I could not, but I think I got one in August.

25 Q. How were they signed?

A. They were signed Joseph Hastings.

26 Q. Were they written with a pen or with a pencil?

A. I don't know as I can tell.

27 Q. Did you see him write them?

A. I did not.

28 Q. Did you ever show any of those letters to him and
110 ask him if he had written them?

A. I did not.

29 Q. Answer, then, how you know that he wrote them with his own hand.

A. That I could not tell, as I did not see him write them. I supposed it was his handwriting.

30 Q. If those letters were not written by him, then, what would you say if the letters shown you and of which you have given your opinion in this examination?

A. To the best of my recollection, they all looked alike.

31 Q. What year did Mr. Hastings come to Hancock county?

A. I think 1873.

32 Q. Did you ever after that date receive any letters from Mr. Hastings that you knew were written by him?

A. I think I never received any only the ones I got at that time.

33 Q. Did you ever see him write his name after that time?

A. I did.

34 Q. To what?
A. To an article of agreement.
35 Q. When was that?
A. May, 1881.
36 Q. Who wrote the article?
A. I think Jacob Burket wrote it.
37 Q. Who signed with him?
A. No one.
38 Q. What was it about?
A. It was about a loan I made with him, and it was to show he held a note as collateral security.
38 Q. How did he sign that agreement?
A. I believe he signed it J. Hastings.
39 Q. Have you that paper now?
A. That is the paper (pointing to paper Exhibit "*Dd*").
40 Q. Did you see Mr. Hastings write his name at any other time after 1872?
A. Yes, sir; after 1872 I did; also when mortgage was canceled. I can't say I saw him write it any other time.
111 41 Q. What writings did you see him do after 1872?
A. He helped me fix up my accounts in my settlement with the probate judge.
42 Q. How much was there of that account?
A. I don't recollect. It took two days.
43 —. ——.
—. To the best of my recollection I think it was done with a pen.
44 Q. Do you know from information of Mr. Hastings or any other person that the money in the eight and $700.00 notes referred to by you belonged to Mrs. Margaret Alexander?

Objected to by plaintiff's attorney.

A. I do not know who the money belonged to.
45 Q. You say you borrowed $220 from Mr. Hastings at the time you settled up the mortgage claim against the estate. Now, did you get the money from him at the time or give your note for the unpaid balance of the mortgage claim?
A. I paid him in full and then turned around and borrowed $220.00 of that money back again.
46 Q. In your examination-in-chief you answer, I would say that to the best of my knowledge the letters shown me are the writing of Mr. Hastings (answer No. 17, direct examination). Now, have you any other means of judging of the handwriting of Mr. Hastings than the letters spoken of by you, the signature to the paper attached to this examination, the signature to the release of the mortgage, and the account which you say he assisted you to make for your report to be filed in the probate court? And, if so, state any other means fully.

(Objected to by plaintiff's attorney.)

A. Nothing more than signatures and writings I have seen him

do. There was nothing else but one note, which he drawed up. It was when I borrowed $100.00 from Aunt Nancy Alexander.

47 Q. Have you named previously all the writings you
112 have seen Mr. Hastings do?

A. All I recollect of at present.

48 Q. Did you see Hastings write the Mrs. Nancy Alexander note?

A. Yes, sir.

49 Q. When was that note written for Mrs. Nancy Alexander?

A. I think it was in 1883 or 1884. It might have been in 1885.

50 Q. When did you first see the letters about which you have testified in this examination, and who showed them to you?

A. I think it was the last of last week. That gentleman there showed them to me (referring to Mr. Dillman).

51 Q. How many did you inspect that time?

A. I could not tell; I looked at several.

52 Q. Did you examine all you examined here to-day (at that time) carefully?

A. I can't tell whether I did or not.

53 Q. How many did you examine the other day?

A. I said I could not tell the number.

54 Q. How long were you then engaged in examining them?

A. Probably fifteen or twenty minutes.

55 Q. Who assisted you in making the examination and what suggestions did he make at the time or what did he say at the time?

(Objected to by plaintiff's attorney.)

A. Mr. Dillman came and asked me if I had seen Mr. Hastings' handwriting. I said I had seen and handled some of it and seen him write. He showed those letters. He asked me if I could recognize the handwriting. I told him, as near as I could compare it, it compared with Mr. Hastings'.

56 Q. Did he tell you from whom he had received those letters?

Objected to by pl'ff's att'y.

A. After we had had that conversation he told me they were Mr. Hastings' letters.

57 Q. Did you see any letter among the lot shown you or
113 among those shown you here to-day on your examination that was not signed by anybody?

A. I believe I did notice one.

Redirect examination by plaintiff:

1 Q. To whom was the Nancy Alexander note you mention made payable?

A. It was made payable to Nancy Alexander.

2 Q. To whom was the note you made for ten hundred and twenty dollars and the two notes of your brother and father made payable?

A. They were made payable to Mr. Hastings.

3 Q. Are you sure that Mr. Jacob F. Burket wrote the agreement

you speak of in your cross-examination that is signed by Mr. Hastings?

A. I think now, since having my attention called to it, that Mr. Peter Piper wrote the agreement. It was written in Mr. Burket's office.

4 Q. Did you receive the letters you speak of having received from Mr. Hastings shortly after their date?

A. I don't think it was any great length of time.

5 Q. How much money did you pay Mr. Hastings on the notes of your brother and father when you settled them?

A. It appears to me that about all together it was about twenty-seven hundred dollars ($2,700.00).

6 Q. State whether or not it might be that when those notes were paid by you they were simply marked cancelled, without having a direct endorsement of the payment of interest on them.

A. I am not positive and cannot tell whether it was or not.

Recross-examined by defendants' att'y:

1 Q. Is or not the correct amount paid on those notes carried into your settlement account of your father's estate filed in the probate court?

A. It is.

2 Q. What was the correct amount of the note which was made to Mrs. Nancy Alexander?

A. It was for one hundred dollars.

114 3 Q. What note was it that the Rufus R. R. Hartman note was given to secure?

A. It was the note of $220 given to Mr. Hastings.

4 Q. The receipt given you by Mr. Hastings states that the note was for two hundred and ten dollars. Which is correct—the receipt or your statement?

A. The receipt must be correct, as it was written from the face of the note and must be right undoubtedly.

5 Q. Is the note for $210.00 mentioned in the receipt the same note that was given by you for money borrowed from Mr. Hastings at the same time you paid the mortgage notes of $700 or $800 that you spoke of?

A. It is. ABRAHAM TEATORTH.

It is hereby stipulated and agreed by and between the parties in this action that the letters and papers referred to in the foregoing depositions and marked as exhibits that are not attached thereto are not to be attached, but are to be kept for the use of both parties in the further taking of testimony in this case; and it is further agreed that said letters and papers are to be treated and used in the trial of this case in the same manner as they could be used if attached to all depositions in which they are referred to.

Findlay, Ohio, April 29, 1887.

BAKER, SMITH & BAKER,
Sol's for Complainant.
WHITELEY AND BOPE,
Sol's for Def'ts.

STATE OF OHIO, }
Hancock County, } *ss:*

I, H. F. Burket, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Alfred Graber, H. P. Clark, Eliza A. Clark,
115 Matthew M. Alexander, Aaron Howard, Matthew M. Alexander, Sr., William Howard, Rufus Fellers, Abraham Teatsorth were by me first severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed as above set forth were reduced to writing *my* myself and in the presence of the witnesses respectively, and were subscribed by said witnesses in my presence, and were taken at the time and place in the annexed notice specified and continued from day to day, as above set forth. I do further certify that I am not a relative or attorney of either party or otherwise interested in the event of this action.

[SEAL.] In witness whereof I have hereunto set my hand and seal of office this 29th day of April, A. D. 1887.

H. F. BURKET,
Notary Public.

Cost Bill.

Writing depositions at 20 cents per 100 words	$60 78
Swearing witnesses, 10 cents each	80
Express	25
	$61 83

Witness Fees.

($1.75 per day and 5 cents travelling fees each mile both ways.)

Alfred Graber	$1 50
H. P. Clark	1 50
Eliza A. Clark	1 50
Matthew M. Alexander	1 50
Aaron Howard	1 50
Matthew M. Alexander, Sr.	1 50
William Howard	1 50
Rufus Fellers	1 50
Abraham Teatsorth	1 50
	$13 50

116 Received of Jared Dillman the sum of $61.83 in full of my fees as above specified. The witnesses were paid their fees by Jared Dillman.

[SEAL.]

H. F. BURKET,
Notary Public.

EXHIBIT "M." H. F. Burket, Notary Public.

Envelope addressed: Dr. J. W. Dillman, # 1809 Market St., Philadelphia, Pa.
Marked: Received at Philadelphia, Pa., Apr. 28, 7 p. m.

EXHIBIT "L." H. F. Burket, Notary Public.

Envelope addressed: J. W. Dillman, M. D., # 1809 Market St., Philad'a, Penn.
Stamped: Findlay, O., Dec. 28.
Marked: Received at Philadelphia, Pa., Dec. 30, 7 a. m.
Envelope bears stamp of Continental hotel, Philadelphia, on face, and The Continental, Philadelphia, terms $3.00 to $4.00 per day, on back.

EXHIBIT "Y." H. F. Burket, Notary Public.

JOSEPH HASTINGS, Plaintiff,
against
WM. HOWARD and SAMUEL HOWARD, Defendants.

APRIL 8, 1885.

Received of Aaron Howard one hundred and three dollars to apply on judgment in above cause.

G. C. BARND, *J. P.*

EXHIBIT "Z." H. F. Burket, Notary Public.

LUCAS, O., *May* —.

117 DEAR BRO. & SISTER: Your kind letter was duly received, and I take this opportunity of replying at this time. We are enjoying reasonable health, & I hope these lines will find you & family all well. Mary's health the latter part of winter was poorly. She took a good deal of medicine and is yet taking it, though she is pretty smart. We have no hand and are trying to do our farming. We want to build this season, too. We shall begin as soon as planting is over. Margaret has been better & worse by spells; sometimes quite poorly, then better, but really I don't see as she is any better than when you was here. Bro. George, I hear, has sold out, but I can't tell the —. I am half inclined to think his payments are small, though I cannot say, because I don't know. The high water has damaged Robert probably not less than $500. He don't think he can save any of harvest. The high water carried off many bridges—the ½ of that one — Bob's mill, the one in Newville altogether, and several more up there. It washed the old farm awfully. Freeman is talking of building a long breakwater along the creek. Wm. Garrett has married a woman in Carroll county and moved into George's old house. He has bought 100 acres from George. Spring work is very backwards. We want to plant one field the

last of this week. Wheat looks first rate. Peaches are blossoming full, & apples, too. Please write often.

Yours truly, J. HASTINGS.

We shall come when we can; will let you know when we are coming; 2 New Hampshire men have come and we are looking for more soon. I suppose Bro. George will come on after planting.

HASTINGS.

118 EXHIBIT "A*a*." H. F. Burket, Notary Public.

LUCAS, O., *Jan'y 20th*, 1869.

BRO. PETER: Your kind letter was duly received. We were glad to hear that you are all well & hope these lines will find you well. We are enjoying our usual health. We were down to-day to Margaret'-; she is probably better than when you went home, but not as well as when you come; she don't sit up much; the rest are well, as usual. We have not seen them new furs yet. I guess they did not come to town, so the old style has to do. Uncle John Mitchell & wife have been out here on a visit. There was two men died in Lucas this week; both had been in the army and were Rads. We have had no very cold weather, not over 3 or 4 inches of snow; the creek ain't froze over yet. The old Ridmour, in Washington township, sold lately at $60 per acre; the farm comes with Uncle Matthews. Bob has not been up to the big meeting yet. I think he will be up this week one evening. Your brother Tucker fell on a rock & hurt his leg. Mr. John Craig, the old gentleman, is sick, confined to his bed, & I think can't get well again. Mrs. Atwood will prepare the beans & onions for your musick. Just now the music business is rather dull. Please write often. I have been very busy surveying & other things. We have just butchered. Mrs. Atwood is knitting Nancy a pair of stockings, Yankee style, & will bring them out and exchange them for those balls of yarn, so Haney need not knit them.

Yours truly, J. HASTINGS.

EXHIBIT "B*b*." H. T. Burket, Notary Public.

LUCAS, O., *Nov. 14th*, 1870.

Bro. Peter.

119 D'R SIR: We left Findlay on the 5.10 train; reached Fremont in time for the other train at Monroeville; the train was waiting & had to hurry on board without getting tickets; reached Mansfield before ten o'clock in the forenoon, and as Mary was so much of a hurry to get home we started on foot, but soon met 3 teams from our neighborhood, so she walked part the way and rode part the way; found the folks all well. Uncle Matthew is better than he was when we went out to your place. Mrs. Geo. Tarris is no better, but they think rather worse. This morning the children started to school. I had made arrangements to go into

Washington t'p to survey to-day, but it is raining, & I fear you can neither thre*a*sh nor husk corn; having kept you from husking last week, I don't know but I ought to come again and help you finish husking. If it don't rain too hard I have to go to Mansfield this afternoon. A man proposes to pay me some money, enough to pay taxes, &c., to-day. I did not expect this one to pay me so soon. I hear Grany Huarsh visited Brother Geo. and has vetoed his selling his farm; it is only hearsay to me. I am told the Gov. of N. York had in the city 15,000 soldiers under arms at their arsenals ready at the tap of a bell to rush forth fully armed and equipped. It is thought Grant was completely headed off. The subcontractor for building the court-house at Mansfield run off; left his men 2 months' pay behind; work has stopped & an awful excitement prevails. This letter is for you all & Margaret, too. Write soon.

Yours truly, J. HASTINGS.

EXHIBIT "Cc."

$193.95. One year after date we or either of us promise to pay Joseph Hastings or order the sum of one hundred and ninety-
120 three dollars and ninety-five cents, with interest at eight per cent., interest payable annually.

Witness our hands this 18th day of April, A. D. 1880.

WILLIAM HOWARD.
SAMUEL HOWARD.

Filed May 21, 1884.

G. C. BARND, *J. P.*

Judgment rendered May 26, 1884, for $261.48.

G. C. BARND, *J. P.*

EXHIBIT "Dd." H. F. Burket, Notary Public.

APRIL 5TH, 1881.

Received of Abraham Teatsorth one note calling for fifteen hundred dollars, dated April 5th, 1881, payable to said Teatsorth, as ex'r of James Teatsorth, deceased, and signed by Rufus R. Hartman. Said note is to be held by me as collateral security for the payment of a certain other note executed and delivered by said Abraham Teatsorth to me for the sum of two hundred and ten dollars and dated this day.

J. HASTINGS.

And on the 10th day of May, 1887, the following depositions were filed, taken in behalf of complainant, viz:

THE STATE OF OHIO, } ss:
Hancock County, }

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Dec., Defendants. } No. 529.

The defendants will take notice that on Wednesday, the fourth day of May, A. D. 1887, the above-named complainant will take the depositions of sundry witnesses, to be used as evidence on the trial of the above-entitled cause, at the common pleas court-room
121 of Hancock Co., in the village of Findlay, county of Hancock and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day between the same hours until they are completed.

BAKER, SMITH AND BAKER,
Sol's for Compl.

I acknowledge service of the above notice at its date and waive all questions as to time of notice this 4th day of May, 1887.

WHITELEY & BOPE,
Att'ys for Def'ts.

Caption for Depositions.

Depositions taken before me, H. F. Burket, a notary public within and for the county of Hancock, in the State of Ohio, pursuant to the annexed notice and stipulation, at the time and place therein specified, to be read in evidence on behalf of the complainant, in an action pending in the United States circuit court, northern district of Ohio, western division, in which Jared W. Dillman is complainant and John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, defendants.

Present: R. H. Baker, on behalf of the complainant, and M. C. Whiteley, on behalf of the defendants.

PETER ALEXANDER, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Peter Alexander; I am seventy-two years of age in fall; I am a farmer by occupation, and I reside in Allen township, Hancock county, Ohio.

2 Q. What relation, if any, do you bear to the defendants, John F. Hastings and Philip Reimund?

A. My sister was mother of Reimund's wife, and John Hast-
122 ings is her (my sister's) son.

3 Q. What relation, if any, do you bear to the estate of John F. Hastings as bondsman or otherwise?

A. I am not his bondsman now. I got released by the probate judge.

4 Q. State whether or not you were acquainted with Joseph Hastings; and, if so, how long.

A. I was acquainted with Joseph Hastings some thirty years.

5 Q. State whether or not you ever had any correspondence with him.

A. Oh, yes; we had a great many letters from him. He lived in Richland Co. a long time after I lived in this county.

6 Q. Can you tell what has become of the letters received from him?

A. Well, the old woman gathered them up and burned them in the stove. There was so many they got to be a nuisance. His were among others.

7 Q. State whether or not you know of your son Matthew bringing some letters here with him last week; and, if so, whose letters were they.

(Objected to by defendants' att'y.)

A. He fetched a couple. They had the signature of Hastings on.

8 Q. State where, if you know, he got them.

A. Well, I reckon he got them out of the place where they kept the letters.

9 Q. Are you acquainted with the handwriting of Joseph Hastings?

A. Well, I can't say much about that now, as my eyesight has failed me. I have seen and tried to read right smart of it; sometimes I would have to go over it three times before I would get it all right.

10 Q. State whether or not all of the letters you received from Joseph Hastings were destroyed.

A. I think a great part of them were.

123 11 Q. State whether or not you ever heard Joseph Hastings say anything about receiving money from any one away from here to loan out.

A. I heard him frequently saying that the doctor had sent him money.

12 Q. Whom do you mean by the doctor?

(Objected to by def'ts' att'y.)

A. This man over here (Dillman referred to).

13 Q. When did you ever hear him speak of this?

A. I can't tell the time; to tell the time I can't tell it just right, but it was a good many times.

14 Q. What did he tell you, as near as you can remember?

A. Well, he told me this doctor was with United States Army,

you know, and he was sending him his money to loan out. I did not know the doctor.

15 Q. Did he ever tell you how much money the doctor was sending him?

A. Well, sometimes a couple of hundred dollars and sometimes five hundred. I understood him that way.

16 Q. Did he ever tell you how much in all he had received from the doctor?

A. No; I don't know as he did.

17 Q. What reason, if any, did you have for being released as a bondsman of the administrators of the estate of Joseph Hastings?

A. Well, I expected there would be some trouble. I went to desk to write my name down, and Reimund and Hastings and judge were there, and I said, If any crookedness, my name must come off. They said, You getting scared, are you? And I told them if my name was on I wanted to make my word good.

18 Q. When did you tell them this?

A. I told John last June that I wanted my name off. Then last Tuesday (week) I came in here and probate judge said John
124 had been talking to him, and it would be all right if my name had to come off, me not being posted in law, and they was making quitclaim deeds back and forth among them, and I thought it would be best to have it off, and my word was there I thought should come off.

Cross-examined by defendants' attorney:

1 Q. You knew the quitclaim deeds made was to consummate a division of the lands left by Joseph Hastings among his children?

A. I supposed it was that; but there was an option on part of it and I didn't know law enough to know whether they could sell it or not.

2 Q. How long has it been since you received a letter purporting to be from Joseph Hastings?

A. I believe I never had one from him since he come to this county; when he come to this county and bought the Barr land.

3 Q. Were you and Mr. Hastings on intimate and friendly terms during the last 5 or six years?

A. Well, not so powerful.

Redirect examination by plaintiff:

1 Q. State whether or not you were on friendly or intimate terms with Joseph Hastings prior to his death.

A. Yes.

Recross-examined by defendants:

1 Q. When was it that you and Joseph Hastings ceased to be on friendly and intimate terms?

A. Well, it was in last night of October, 1884.

2 Q. How had you been for five or six years before that?

A. Well, we was on good terms.

3 Q. When was it the last time he told you about the doctor sending him money?

A. It was only a short time before October, eighteen hundred and eighty-four.

PETER ALEXANDER.

125 W. C. WATSON, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Wm. C. Watson, and I am 38 years old; occupation is real-estate agent, and I live in Findlay.

2 Q. State whether or not you were acquainted with Joseph Hastings; and, if so, how long you have known him.

A. Yes, sir; I was acquainted with him; I have known him four or five years previous to his death.

3 Q. State whether or not you ever had any conversation with him in regard to money matters.

A. Yes, sir; I had.

4 Q. When?

A. About January 18 or 20, 1886.

5 Q. What was his condition at to health at that time?

A. His condition was fair, I guess.

6 Q. Was he or not able to attend to business?

A. He was able to attend to business.

7 Q. How long were you there at that time?

A. I was there probably three hours.

8 Q. What was the object of your visit?

A. For the purpose of borrowing money.

9 Q. How much did you want to borrow?

A. Two thousand dollars.

10 Q. What conversation did you have with him with reference to borrowing this money?

A. He said he could have let me had the amount if I had called a few days sooner; that he had loaned it to another party.

11 Q. What, if anything, did he say to you about his having loaned money for some one away from here?

A. He didn't seem to be able to satisfy me that he could let me have it at any time, and said that he was loaning money for a Mr. Dillman, of Philadelphia, Pa., and he wouldn't be able to promise me any money, for Mr. Dillman had requested him to send
126 him five thousand dollars, and that he didn't know what he would think of his having made this loan of ten thousand, and that he thought he would collect all of Mr. Dillman's money and settle with him. As he was getting old from his paralytic affection, he might become disabled to transact business.

12 Q. What, if any, reason did he give you for Mr. Dillman wanting five thousand dollars?

A. He said he wanted it for the purpose of buying real estate for a sister of his.

13 Q. What, if anything, did he say to you about the amount of money he had received from Mr. Dillman?

A. He didn't tell me.

14 Q. What, if anything, did he say about the $5,000.00 Dillman wanted being all of his money that he (Hastings) had?

A. He said he guessed that he would not only send the $5,000, but that he would collect and settle up in full with Mr. Dillman, as he was getting old and had become disabled to transact business.

15 Q. What, if anything, did he say to you about the length of time he had been receiving money from Dillman?

A. He said for several years.

16 Q. What, if anything, did he say about his having been to Pittsburgh a short time previous to your visit?

A. He spoke of his having been there and was sorry he could not have went to Philadelphia to have met Mr. Dillman.

17 Q. Do you know what the object of his visit to Pittsburgh was? And, if so, please state it.

A. It was some business transaction he had for other parties. I don't know as I fully understand what it was.

18 Q. What, if anything, did he say in regard to his having suffered from a stroke of paralysis?

127 A. He spoke of having had an attack of paralysis and of the danger of another attack of it.

19 Q. Did he say when he had suffered from that stroke?

A. No; he only called my attention to it as having happened some time previous to my going there.

20 Q. Was he or was he not, as far as you can see, suffering from paralysis when you saw him?

A. No, sir.

21 Q. What, if anything, did he say he was suffering from?

A. Asthma.

22 Q. Are you sure that it was the 18th or 20th of January, 1886, that you made this visit?

A. No, sir; it was probably from 11th to 14th of January, 1886.

23 Q. Do you remember day of the week?

A. I think it was Monday or Tuesday.

24 Q. What lead up to the conversation in regard to Mr. Dillman?

A. I suppose what lead to it was my inquiring for money.

25 Q. What was the drift of your conversation other than in regard to Dillman?

(Objected to by defendants' att'y.)

A. We spoke about our political faith, both being of the same political opinion, and of our strong faith in those opinions. I said my political opinion was a part of my religion. Mr. Hastings confirmed it by saying that his political opinion was a very great part of his religion. He told me how he had commenced battling life in poverty, how poor his parents were, &c., &c.

(Objected to by defendants' att'y.)

26 Q. State what, if anything, he said to you in regard to his personal relation with Mr. Dillman.

A. He spoke in the very highest terms of Mr. Dillman, and said that he was nearly as one of his own family, and spoke of Mr. Dill-

man's ability as a scholar and of his teaching his district school, and he always gave him a welcome place in his family, and also invited him to this house.

128 27 Q. What, if anything, did he say in regard to his giving up the agency for loaning Mr. Dillman money?

Objected to by defendants' attorney.

A. He said he was growing old and it was probably best to give it up, as he might soon be unable to tend to the responsibilities.

28 Q. What, if anything, did he say about anybody succeeding him in loaning money for Dillman?

A. He gave me Mr. Dillman's address and suggested that I apply for the agency.

29 Q. State whether or not you did so apply to Mr. Dillman.

Objected to by defendants' att'y.

A. Yes, sir; I did.

30 Q. In what way did you apply?

A. As Mr. Hastings suggested, I did write.

31 Q. When did you write?

A. About the 14th of January, 1886.

32 Q. State whether or not you received an answer to that letter from Mr. Dillman.

A. Yes, sir.

33 Q. Have you the letter or a copy of the letter you wrote to Mr. Dillman?

A. No, sir.

34 Q. Have you the letter you received from him in answer to the one you wrote?

A. Yes, sir.

35 Q. Will you hand it to the notary and request him to mark it Exhibit "Ee" and attach it as a part of your deposition?

Objected to by defendants' att'y.

A. Yes, sir.

(It is hereby attached and marked Exhibit "E *e*," H. F. Burket, notary public.)

Answer objected to by def'nts.

36 Q. Have you the envelope in which that letter came?

A. Yes, sir.

37 Q. Will you hand it to the notary and request him to mark it Exhibit "Ff" and attach it to and as a part of your deposition?

A. Yes, sir.

(Answer objected to by defendants' att'y.)

129 It is hereby marked Exhibit "Ff," H. F. Burket, notary public, and attached as a part of this deposition.

38 Q. State whether or not you knew Mr. Dillman's address before it was given to you, as you say, by Joseph Hastings.

A. No, sir.

39 Q. State whether or not you knew of Mr. Dillman before your conversation with Mr. Hastings on the 11th or 12th of January.

A. No, sir.

40 Q. State whether or not you know of H. P. Clark's having paid interest or principal of a note to Mr. Hastings or his administrators.

A. Yes, sir; I knew of him paying interest and principal to the administrators.

41 Q. When?

A. I can't give the — exactly; such things happen in my office so often I don't keep data of them.

42 Q. Who was present and where was it?

A. R. M. Watson, H. P. Clark, and Philip Reimund, administrator, and myself. It was in my office.

43 Q. What amount was paid?

A. I don't remember the amount.

44 Q. Who figured the interest?

A. I guess we all did.

45 Q. Do you remember whether or not the interest was compounded?

A. Yes, sir; it was.

46 Q. At what rate was interest figured and paid?

A. At 8%.

Cross-examined by defendants' att'y, M. C. WHITELEY:

1 Q. How long had you known Mr. Hastings previous to Jan., 1886, that you speak of?

A. Four or five years. I might have known him some longer than that. I would not be positive.

2 Q. How intimate was that acquaintance?

A. As neighbors.

3 Q. Had you ever been to Mr. Hastings' house before that time; and, if so, when?

130 A. Yes, sir; I had been there before that. I would not be positive, but it was after he had finished his new house. He took me through it and showed me its arrangements.

5 Q. How long before January, 1886, was that?

A. Well, it might have been a year or two years; I can't say, but I remember his kindness in showing me its arrangement.

6 Q. Was the new house furnished when he showed you and was he occupying the same part with his family?

A. Yes, sir; and he was occupying it.

7 Q. Did he say how long he had been occupying it at that time?

A. No, sir; he said nothing about that.

8 Q. Do you know how long before that time the house had been completed?

A. No, sir.

9 Q. What induced you to go to see Hastings to borrow money in January, 1886?

A. Because I needed the money.

10 Q. Why did you go to him?

A. I learned he was loaning money.

11 Q. Were you engaged in loaning money at that time for any person?

A. No, sir; not particularly.

12 Q. Were you generally?

A. Well, no; not very generally. I think I had solicited two or three small loans.

13 Q. For whom did you loan money about that time?

A. I was not loaning money positively at that time. I may have solicited a few loans, but I do not remember about that time. I had thought of making that a part of my business.

14 Q. Did you tell Mr. Hastings you contemplated loaning money?

A. Yes, sir.

14½ —. Did you or did you not in fact engage in the business of loaning money about that time or afterwards?

A. Well, if in fact means when any person comes and I can assure them of the loan, I had not.

131 15 Q. Did you at that time or afterwards engage in securing loans for others?

A. Yes, sir; I have secured some loans since that.

16 Q. What use did you propose to make of the money that you sought to loan from Hastings?

A. It was for my own use.

17 Q. What use was that?

A. I was involved at that time, and I wanted it to meet my obligations and pay my depts; it was to meet my own obligations.

18 Q. Name any persons to whom you wanted to make payment at that time.

A. William Carlin. My obligations were not due, but I wanted to lift them at that time. He was the most important one.

19 Q. Was your indebtedness to him evidenced by a note or otherwise?

A. It was by notes.

20 Q. Was that the William Carlin who is mayor of Findlay?

A. Yes, sir.

21 Q. State whether you ever had any business transactions with Mr. Hastings.

A. No, sir.

22 Q. How long did you remain at his house in conversation with him in the month of January, 1886, that you speak of?

A. I expect I was there two hours, probably.

23 Q. What time in the day was it?

A. In the forenoon.

24 Q. Who was present?

A. Part of the time Miss or Mrs. (I don't know which) Alexander, and Mr. Reimund was there a short time. He dropped in and went away soon. That was all.

25 Q. Who were present at the house when you made the previous visit that you speak of?

A. I think one of his daughters was present. I don't remember. There might have been others there.

26 Q. Were you at his house between the times when he
132 showed you through the house and this time in January, 1886?

A. No, sir.

27 Q. You say in your examination-in-chief that when you were there in January, 1886, "Mr. Hastings' condition was fair, and that he was able to attend to business." Was he able at that time to leave his room?

A. Yes, sir.

28 Q. Did he leave his room while you were there?

A. No, sir.

29 Q. How do you know that he was competent at that time to attend to business?

A. Well, he walked across the room, sat and talked to me for about two hours, and talked about business matters—as to what he had done and intended doing.

30 Q. Did you transact any business with him at that time?

A. No; only as stated.

31 Q. How did the conversation about the money commence?

A. By my asking for a loan.

32 Q. What reply did he make to that?

A. He said if I had been a few days sooner I could have had it, but he had then loaned it.

33 Q. Did he say to whom he had loaned it?

A. No, sir; he didn't say.

34 Q. Did he say how he had loaned it—whether note with security or mortgage, or how?

A. No, sir; he didn't say.

35 Q. Did you learn from him in that conversation whether the loan spoken of by him had been made and to whom?

A. I learned that it had been made, but not to whom.

36 Q. Did you learn from any other source to whom it had been made?

(Objected to by plaintiff's att'y.)

A. No, sir; I did not.

37 Q. What was said in that conversation about the condition of Mr. Hastings' health?

A. He said to me he was growing old and his health was becoming delicate.

133 38 Q. What was said about his having *said about having* had a stroke of paralysis?

A. He spoke to me of the fact of his having a stroke and the danger of another attack.

39 Q. When did he say that was?

A. He didn't state when.

40 Q. From the conversation you had with him upon that subject how long did you understand that stroke had occurred before this conversation?

A. Well, he spoke to me of it as being familiar to myself—that is, as though I had some knowledge of it.

41 Q. Did you know how long it had occurred before that conversation?

A. Not exactly. I think about a year.

42 Q. Was it spoken of in that conversation as having occurred shortly before or a long time?

A. No, sir; he didn't speak particular about the time.

43 Q. Did he or not claim to be suffering from the effects of paralysis at that conversation?

A. No, sir; he did not complain of paralysis; he did, though, of asthma. At that time he only spoke of the danger of a second attack of paralysis.

44 Q. When he told you Dillman wanted money to buy real estate for his sister did he say how recently he had got such information?

A. He said it was after he had made the loan of $2,000.

45 Q. How long before this conversation did he say he had made the loan?

A. He said he had made the loan before receiving Mr. Dillman's order for $5,000, and my impression was that it was not very long.

46 Q. State whether you have corresponded with the plaintiff Dillman about the subject-matter of this suit since it has been commenced.

134 A. Yes, sir; we have had some correspondence.

47 Q. State whether he has presented to you any correspondence which he represented to be between himself and any other person upon the subject of this controversy.

A. No, sir.

48 Q. Have you not read other letters in his possession and shown to you by him about the subject of his claims against Hastings?

A. No, sir.

49 Q. Have you not read any such letters?

A. No, sir.

50 Q. Were any such read to you by Mr. Dillman or any other person?

A. No, sir.

51 Q. State whether you have been employed by Mr. Dillman to hunt up witnesses or find testimony for him in this case.

A. No, sir.

52 Q. Have you taken any part, and, if so what, in hunting witnesses or finding testimony for the plaintiff in this case?

A. No, sir.

53 Q. Are you acquainted with J. C. Trout, who resides in Liberty township?

A. I don't know whether I would know him by the initials or not.

54 Q. Do you remember the circumstances of examining a note paid by Trout to Hastings in the possession of Trout; and, if so, what did you say to Trout at the time?

A. I don't remember the circumstances. I answered I did not see him under that circumstance. I do not know which one you refer to.

55 Q. Did you have a conversation with J. S. Trout, who lives

across the road from Samuel Mosier's, in Liberty township, this county, about a note which had been given by him to Mr. Hastings and paid by Trout?

A. No, sir.

56 Q. Did you not say to Trout in a conversation with him that you wanted to get that note from him so that Mr. Dill-
135 man could use it as evidence in this case?

A. No, sir.

57 Q. What have you done in learning facts and circumstances about this case and communicating the information to the plaintiff Dillman?

A. Nothing.

58 Q. State whether you have traveled over the county with the plaintiff Dillman and assisted him to find witnesses to testify for him in this case.

A. No, sir.

59 Q. Do you say that you have not rode into the neighborhood with him at all?

A. No, sir.

60 Q. Do you say you have not been out riding with him at all?

A. No, sir.

61 Q. Before you made your answer to the last question did you notice Mr. Dillman look at you and shake his head?

A. Yes, sir; he shook his head in the affirmative, and that was wrong, and if he meant that for me it is wrong, for I answered it correctly.

62 Q. Were you at any time at the house of John F. Hastings with Mr. Dillman; and, if so, how did you go?

A. Yes, sir; I was there. We went in a buggy.

63 Q. Where else did you and Mr. Dillman go that day?

A. I guess that was the only place.

64 Q. Where did you start from?

A. We started from Findlay.

65 Q. When was that?

A. I don't remember just the time.

66 Q. What was your business at that visit?

A. It was for the purpose of adjusting an ami-able settlement of their matters.

67 Q. Was that before or after this suit was commenced?

A. I am not positive whether it was before or after.

68 Q. What part were you to take in the adjustment?

A. None particular.

69 Q. Why did you go along?

A. I went along as a neighbor would go, I suppose; not
136 any more in Mr. Dillman's favor than Mr. Hastings'.

70 Q. Who invited you to go?

A. Mr. Dillman.

71 Q. Did either of these defendants ever ask you to assist in adjusting this claim?

A. No, sir.

72 Q. How often had you met Mr. Dillman before you and he went to John F. Hastings, as you state?

A. I don't know; several times.

73 Q. Were these several times that you met him at one of his visits to Findlay, or upon several occasions?

A. I think it was the first visit he made to Findlay (that I know of).

74 Q. Were these several times that you saw him all at the time of that visit?

A. Yes, sir; several times on that visit.

75 Q. How much had you and Mr. Dillman corresponded about this case before this visit?

A. The one letter that I have shown here (Exhibit "Ee").

76 Q. Was the principal part of your correspondence then after that visit?

A. Yes, sir; there was several letters exchanged.

77 Q. What compensation have you received from Mr. Dillman or has been promised you by him to assist him in any manner in getting any testimony or informing him of testimony in his behalf in this case?

A. Nothing.

78 Q. Has the plaintiff, Dillman, placed in your hands any money or anything as compensation for your assistance in his behalf in this case?

A. No, sir.

79 Q. Have you received anything from him since the time he made the first visit to Findlay you speak of on any account or for any purpose whatever?

A. No, sir.

80 Q. You say the interest was compounded on the Clark note. What do you mean by that and how do you mean by com-
137 pounded?

A. It means compound interest, by which I mean to figure interest on interest.

81 Q. How long had that note run from its date until it was paid?

A. I do not know.

82 Q. How many payments had been made upon it when you made the computation?

A. I don't remember.

83 Q. What was the amount for which the note was given?

A. I don't remember; I think for about $800; but I am not positive about it.

Re-examined by plaintiff:

1 Q. Do you remember whether or not that Clark note was paid before it was due?

A. Yes, sir; it was paid before it was due.

2 Q. Do you remember how long before it was due and whether interest was paid on it up to the time it was due?

A. I don't know just how long it was paid before it was due, but interest was allowed for the time until it became due.

3 Q. What do you mean by allowed?

A. Mr. Clark thought he ought to pay interest only to the date of payment, but he paid interest for the time he had to run until —.

4 Q. Do you remember whether the trip you made with Mr. Dillman to John F. Hastings, that you speak of, was in April, 1886?

A. Yes, sir.

5 Q. You say that the object of that visit was to aid, if possible, in affecting an amicable settlement of this matter. What, if anything, was done at that time to that end?

Objected to by defendants' att'y.

A. There was nothing done that brought it to a settlement. We talked about it whether it was not the most proper thing to
138 do. Mr. Dillman made some offers; one was to lay his papers beside Mr. Hastings' and by comparison make a settlement. Mr. Dillman offered him $1,000.00 for a speedy and friendly settlement. Another offer was to select five disinterested persons and to submit their papers and accept their settlement; another was to place the papers in the hands of his uncle, Mr. Alexander, and submit to his decision.

(Objected to by defendants' att'y.)

6 Q. State whether or not you mean that Mr. Dillman offered to throw off $1,000.00 from the amount they should figure up by comparison of his and Hastings' letters as being due him, in order to facili-ate a settlement.

(Objected to by defendants' att'y.)

A. Yes, sir; that is what I mean.

7 Q. State whether or not Dillman at that time offered to show the administrators all letters and papers in his possession relating to this matter.

A. Yes, sir; he said he was willing to submit all them to them.

8 Q. State whether or not anything was said or done by the administrators in answer to these propositions.

(Objected to by defendants' att'y.)

A. They did not offer to accept any of them.

9 Q. What, if anything, did John F. Hastings say as a reason for his refusing?

(Objected to by defendants' att'y.)

A. Being asked what he expected to gain by a lawsuit, he said if they could gain $3,000.00 by it and pay their attorney three hundred there would be that much gained.

10 Q. State whether or not you remember going with Mr. Dillman one day last week or week before last to Mr. Alexander's house; and, if so, what was the purpose of your going.

A. I rode out with Mr. Dillman as a neighbor, he not being acquainted with the road to be traveled.

139 11 Q. Where, if anywhere, else did you go with him then?

A. We went to Mr. Hickman's?

12 Q. Whom did you see at Alexander's and Hickman's?

(Objected to by defendants' att'y.)

A. At Mr. Hickman's, Mr. Hickman, Mr. Fountain, and several parties that I was not acquainted with, and at Mr. Alexander's was Mr. Alexander, his son, wife, and a young lady; did not know whether it was his daughter or not.

13 Q. What part did you take, if any, in the conversation in regard to letters or documents that Dillman had or in regard to their or any of them appearing as witnesses in this case?

A. I took no part.

14 Q. What, if anything, did you have to do with any conversation with any man by the name of Trout?

A. Not anything.

Recross-examined by defendants' att'y:

1 Q. When you visited these several places with Mr. Dillman what part did you take in introducing him to persons there?

A. I did not take any part.

2 Q. Did you introduce him any place to any one?

A. No, sir.

3 Q. Was he acquainted with the persons that he went to see while you were with him?

A. Yes, sir.

4 Q. At the time you went with him to Alexander's what other place did he go where he was not acquainted?

A. To Mr. Hickman's.

5 Q. Did you leave town with him for the only purpose of showing him where people lived?

A. Yes, sir.

6 Q. How far did Hickman live from Alexander's?

A. I expect three or four miles.

7 Q. In what direction?

A. West.

8 Q. On a direct road?

A. No, sir; it is a roundabout road.

9 Q. Was this visit you made with Dillman to Alexander's after you had been with him to John F. Hastings'?

140 A. Yes, sir.

10 Q. Did Dillman ever in any manner make any request of you to assist him in hunting up testimony or finding witnesses?

A. No, sir.

11 Q. Did you ever tell him that if you found anything favorable for him in the case you would inform him of it?

A. No, sir.

12 Q. Did he ever ask you to do so?

A. No, sir: he never did.

13 Q. What did he ask you to do?

A. He asked me to go with him to John Hastings and Mr. Hickman's.

14 Q. What did he ever ask you to do in reference to assisting in this case?

A. That's all he ever asked me to do.

15 Q. What did you ever promise to do with reference to rendering him any assistance?

A. I never promised him to do anything.

16 Q. Have you any arrangement, agreement, or understanding with Mr. Dillman that you are to have any compensation for any services rendered or to be rendered in this case in case he should be successful and obtain a judgment against the defendants?

Objected to by plaintiff's attorney.

A. No, sir; I have not.

W. C. WATSON, JR.

The further taking of these depositions is adjourned until to-morrow morning at nine o'clock (Thursday), May 5th, 1887.

H. F. BURKET,
Notary Public.

9 A. M. THURSDAY MORNING, *May 5th*, 1887.

All parties being present, the further taking of these depositions was resumed.

H. F. BURKET,
Notary Public.

W. S. HAMMAKER, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is W. S. Hammaker; I am 35 years old; my
141 occupation is postmaster at Findlay, Ohio, and I reside in Findlay, Hancock county, Ohio.

2 Q. State how long you have occupied the position of postmaster at Findlay, Ohio.

A. Seventeen month-, beginning December 1st, 1885.

3 Q. State whether or not you are acquainted with the stamp put on letters going from your office and with the stamp put on letters received at your office.

A. Yes.

4 Q. State whether or not you are acquainted with the stamp or postmark, going from or received at your office, that has been in use since you have been postmaster.

A. Yes.

5 Q. State whether or not the same stamp or postmark is now used that was used in December, 1885; and, if not, when was it changed?

A. No; it was changed last summer some time.

6 Q. Look on the stamp or postmark on the envelope I hand you, marked Exhibit "L," H. F. Burket, notary public, and attached to depositions taken before H. F. Burket, notary public, under a notice dated April 29th, 1887, and tell whether or not it is an impression

of the stamp or postmark used in the post office in Findlay in December, 1885.

A. Yes, sir; that is our old stamp.

7 Q. Was that stamp in use in December, 1885, in post office in Findlay?

A. It was.

8 Q. Look at the envelope marked Exhibit "F*f*," and tell me whether or not the postmark on the reverse side is that impression of the receiving stamp used in the Findlay post office in January, 1886.

A. It is.

Cross-examined by defendants' att'y:

1 Q. How long had the stamp which you identify on the envelope as being used in December, 1885, been used previously to that time?

A. I could not say. It was an old stamp when I took pos-
142 session of the office.

2 Q. How long did you use it when you took possession of the office?

A. About five or six months, I should think.

3 Q. What is your experience as to length of time such stamp used in the Findlay post office—say previously to December, 1885—will last?

A. I should think 3 years, anyhow.

Redirect examination by plaintiff:

1 Q. State what, if any, difference there is between the stamp in use in December, 1885, and the one now in use.

A. The name of Findlay in the old stamp are not as large in old stamp as in the present stamp, but the figures are larger in the old stamp than in the present stamp.

W. S. HAMMAKER.

THE STATE OF OHIO, }
Hancock County, } *ss*:

I, H. F. Burket, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Peter Alexander, W. C. Watson, and W. S. Hammaker were by me first severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed as above set forth were reduced to writing by myself and in the presence of the witnesses respectively and were subscribed by said witnesses in my presence and were taken at the time and place in the annexed notice specified and continued from day to day as above set forth.

I do further certify that I am not a relative or attorney of either party or otherwise interested in the event of this action.

In witness whereof I have hereunto set my hand and seal of office this fifth day of May, A. D. 1887.

[SEAL.]

H. T. BURKET,
Notary Public.

143 EXHIBIT "*Ee.*" H. F. Burket, Notary Public.

The Continental, J. E. Kingsley & Co., Phila.

PHILADA., *Jan.* 23, 1886.

W. C. Watson, Esq.

DEAR SIR: Yours of the 14 rec'd, and in reply must sorrowfully admit that the declining health of Mr. Hastings is causing me no little anxiety & fear that he may ere long be compelled to retire from active business life. Of course, with implicit confidence in his integrity & ability, could I think of no other so long as his health permits & he desires to act, & yet it may not be amiss to be prepared for the worst, or that which must sooner or later be met, hence, being a perfect stranger, you will oblige by giving me a few men for reference, and also by informing whether there still exists in the vicinity of Findlay or you have sufficient demand for money to enable you to loan on unincumbered real estate *as* as to net me 8% per annum in addi-on to satisfactory compensation for your labor.

Very respect'y, etc., J. W. DILLMAN, M. D.,
1809 *Market St., Phila.*

EXHIBIT "*Ff.*" H. F. Burket, Notary Public.

Envelope stamped on face: Philadelphia, Jan. 23, '86, 3 p. m.
Addressed: Mr. W. C. Watson, Findlay P. O., Hancock Co., Ohio.
Marked on face: The Continental, J. E. Kingsley & Co., Phila.; and stamped on back, Findlay, Jan. 25, 12 m.

144 United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.

It is hereby stipulated and agreed that testimony under the above notice in this case may be taken before H. F. Burket, a notary public in and for Hancock county, Ohio, and that all notices, prerequisites, and forms required by law or rule of court for the taking of depositions are waived, and the depositions taken under the above notice shall be received in evidence the same as if all such legal requirements and formalities were fully complied with, subject to all legal exceptions for competency and relevancy.

BAKER, SMITH AND BAKER,
Sol's for Compl.
WHITELEY AND BOPE, *For Def'ts.*

Findlay, Ohio, May 1, 1887.

And afterwards, on the 23rd day of May, 1887, the following depositions were filed on behalf of the complainant:

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
against-
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.

The defendants will take notice that on Thursday, the 19th day of May, A. D. 1887, the above-named complainant will take the depositions of sundry witnesses, to be used as evidence on the trial of the above-entitled cause, at the court-room of the common
145 pleas court of Hancock county, O., in the village of Findlay, county of Hancock and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the takings of the same will be adjourned from day to day, between the same hours, until they are completed.

BAKER, SMITH AND BAKER,
Solicitors for Complainant.

I acknowledge service of the above notice by copy and waive the necessity of other notice and time this 19th day of May, 1887.

WHITELY AND BOPE,
Att'y- for Def'ts.

Caption.

Depositions taken befor- me, H. T. Burket, a notary public within and for the county of Hancock, in the State of Ohio, pursuant to the annexed notice and stipulation, at the time and place therein specified, to be read in evidence on behalf of the complainant in an action pending in the United States circuit court for the northern district of Ohio, western division, in the State of Ohio, in which Jared W. Dillman is complainant and John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, — defendants.

Present: R. H. Baker, in behalf of complainant, and M. C. Whiteley and M. D. Shafer, on behalf of the defendant.

HENRY H. LOUTHAN, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

1st Q. by compl. State your name, age, occupation, and place of residence.

A. My name is Henry H. Louthan; I am 34 years of age; I am a real-estate agent by occupation, and I reside in Findlay, Ohio.

2 Q. What official position, if any, have you ever held?

A. Clerk of the court and township clerk.

3 Q. For how long a time did you hold those positions?

A. Two years as township clerk of Findlay township, Han-
146 cock county, Ohio, and six years as clerk of the court of Hancock county.

4 Q. State whether or not you were acquainted with Joseph Hastings; and, if so, for how long.

A. I was acquainted with Joseph Hastings. My first acquaintance was in 1877.

5 Q. State whether or not you are acquainted with the handwriting of Joseph Hastings, deceased.

A. I saw a great deal of Joseph Hastings' handwriting, and from what I have seen I think I should be acquainted with it.

6 Q. Are you sufficiently familiar with his handwriting to be able to recognize it if you should see it?

A. I think I should be.

7 Q. Look at the paper I hand you, marked for identification Exhibit "A," H. F. Burket, notary public, and consecutively by the letters of the alphabet down to and including "K," H. F. Burket, notary public, and from "N" down to and including "X," H. F. Burket, notary public, and tell, if you can, in whose handwriting they are.

(Objected to by defendants' att'y.)

A. From my knowledge of Mr. Hastings' handwriting I would say they are in Mr. Hastings' handwriting. In explanation, would say I was more familiar with his signature than with his general writing. Of course, there is some difference in a person's handwriting in pen and ink and in pencil.

8 Q. Look at the letter I hand you, dated Findlay, Ohio, May 7, 1885, and marked for identification Exhibit "K*k*," and tell, if you can, in whose handwriting it is.

A. I would say it is Mr. Hastings'.

9 Q. Look particularly at the letter marked Exhibit "I" and tell, if you can, whose hand it is.

A. This letter has no signature to it, and I could not testify as to the writing in the body of the letter, as I was only familiar
147 with his writing as far as his signature was concerned, but I think this resembles his handwriting.

10 Q. State whether or not Mr. Hastings ever said anything to you in regard to his handling and loaning money for a man in Pennsylvania connected with the navy; and, if so, what he said.

A. Along in the fall of 1883 Mr. Hastings was in my office and, speaking about the taxes, was saying that parties that he was loaning money for would probably think they were very high. I asked him who the parties were, and he said they were parties that he was guardian for, and also parties that he received money from that was in the navy. I did not ask him who the parties were or anything of the kind.

Cross-examined by defendants' att'y:

1 Q. (*a*) Did you at any time see Joseph Hastings write anything more than his name, (*b*) and do I understand you to say or want to be understood in saying that the letters handed you for inspection are in the handwriting of Joseph Hastings, or is there merely a resemblance?

A. (*a*) I have. (*b*) I can only say with my acquaintance to Mr. Hastings' handwriting that I would think them to be Mr. Hastings' letters.

2 Q. How often have you seen Mr. Hastings write?

A. I could not state the number of times exactly. I should think ten or fifteen times.

3 Q. What did he write other than his name?

A. He wrote ten letters in my office while I was clerk, but I cannot say to whom.

4 Q. Did he hand you the letters for inspection of his handwriting; and, if so, who was present and when was it?

A. He did not hand the letters to me for inspection. It was in fall of '83, and I cannot remember who was present.

148 5 Q. If you did not see these letters, the mere fact of his writing them in your office—how does that enable you to say or speak of his handwriting?

A. Only my acquaintance with his handwriting, as to seeing his handwriting in a report of supervisor of his township.

6 Q. When was that?

A. 1878.

7 Q. Where is the report?

A. It should be in the township clerk's office of Findlay t'p.

8 Q. Have you seen it since '78?

A. I have not.

9 Q. Had you seen him write before '78?

A. No.

10 Q. Did you see him write that report?

A. I did.

11 Q. Where at?

A. My father's residence, on Main street, owned by T. Cornahem.

12 Q. Have you ever compared that report with these letters handed you for inspection to see whether it was the same handwriting?

A. I have not.

13 Q. What else other than this report you speak of have you seen Joseph Hastings write?

A. Nothing else, except his signature.

14 Q. How often have you seen him write his signature, and to what was it affixed?

A. I could not say the exact number of times I have seen him write his name; he signed his name as a witness to five pension papers for me in the clerk's office one day.

15 Q. Did he sign his name with a pencil or with pen and ink?

A. Pen and ink. Pencil would not go very far with pension agents.

16 Q. Did you ever see him sign his name with pencil?

A. Not to my knowledge.

17 Q. In his signing his name how did he sign it—J. Hastings or Joseph Hastings?

A. In signing these pension papers which I spoke of he signed

his name J. Hastings, but I cannot say as to the report of supervisor.

18 Q. How much were there of that report of supervisor—
149 what was it?

A. It was merely a report of the amount of road taxes worked by parties in his district, and also the non-paying, and with the report of the report of the number of days he put in as supervisor.

19 Q. Did you ever see him write either his name or anything else before this report you speak of; and, if so, the date when you first saw his writing?

A. I did not, as that was the first business I had with Mr. Hastings, which was in spring of 1878.

20 Q. Have you given us all the information and number of times you have seen him write?

A. To the best of my knowledge, I have.

HENRY H. LOUTHAN.

JOSEPH F. GETTZUILLER, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Joseph F. Gettzuiller; age is 44; residence is Findlay, Ohio; occupation, book-keeper.

2 Q. What, if any, official position have you ever held?

A. County recorder in Hancock county from 1879 to 1885, and am at present messenger in the U. S. House of Representatives.

3 Q State whether or not you were acquainted with Joseph Hastings; and, if so, how long.

A. I was acquainted with Joseph Hastings about 25 years.

4 Q. State whether or not you ever had any money transactions; and, if so, what were they?

A. I borrowed $300 from him in 1878.

5 Q. What evidence did you give him of the loan, and what security?

A. I gave him notes secured by mortgage.

6 Q. Have you that note and mortgage now in your possession?

150 A. Yes.

7 Q. Will you hand the note to the notary and request him to mark it Exhibit "*Ll*" and attach it to your deposition?

A. (Hands it to notary and it is marked Exhibit "*Ll*.")

8 Q. Will you hand the mortgage to notary and request him to mark it "*Mm*" and attach it to your deposition?

A. (Hands it to notary and it is marked Exhibit "*Mm*," H. F. Burket, notary public.)

9 Q. I notice this note calls for $306.00. You say you borrowed $300.00. Will you, if you can, explain the discrepancy?

Objected to by defendants' att'y.

A. I think he said at that time that he had to get somebody to look up the title to see if it was clear title.

10 Q. What amount of money did you receive from him?

A. $300.00.

11 Q. What amount of interest did you pay him on that note, if any?

Objected to by defendants' att'y.

A. I paid him ten per cent. on $300.00. I don't know whether I paid 10% on $306.00 or not.

12 Q. By whom were the indorsements on this note made?

A. Made by myself.

13 Q. When?

A. At different times, as dated on note at request of Mr. Hastings, who handed the note to put the endorsements on it.

14 Q. State whether or not when you made the final payment on the note an endorsement was then made.

A. No endorsement made. Note simply handed to me and cancelled.

15 Q. I notice in the lower left-hand corner of the note the letters J. W. D. Can you tell who placed them there?

A. Don't know. It is first I ever saw them.

16 Q. State whether or not Mr. Hastings signed the release on the mortgage himself.

A. He did, sir.

17 Q. Did you see him write it?

A. Yes, sir.

151 18 Q. State whether or not the date on the release is in his handwriting and whether you saw him write it.

A. Yes, sir.

Cross-examined by defendants' att'y:

1 Q. You and Joseph Hastings came from the same county (Richland), did you not?

A. Yes, sir.

2 Q. You were personally acquainted with him before you left Richland county, were you not?

A. Yes, sir.

3 Q. What was his condition as to his financial standing—good or otherwise?

Objected to by pl'ff's att'y.

A. It was good.

4 Q. State, if you know, if he had not sold a large amount of real estate just before coming here.

Objected to by pl'ff's att'y.

A. Well, I know I asked him for the money. He said he was going to sell wheat or real estate, and when that sale was made he could let me have the money.

Objected to by pl'ff's att'y.

5 Q. What, if anything, was said by Mr. Hastings at the time

you borrowed the $300.00 referred to by you in your examination-in-chief as to whether he would be able to let you have the money?

A. He said he was about to make a sale of some kind, and I did not hear him say whether it was wheat or land, and if he made the sale I could have the money.

6 Q. This note that your attention was called to in your direct examination has been in your possession ever since it was paid off, has it not?

A. Till this morning. Mr. Dillman was at my house and I gave the note to him and it was in his possession three or four hours.

7 Q. State if the letters J. W. D. in the left-hand corner of the note were there before you handed it to J. W. Dillman.

A. I never noticed any letters on the note till my attention was called to them just now.

8 Q. If the letters had been there would you have not noticed them?

152 A. It is likely I would have noticed them, but yet I might not have noticed them; but I think I would have noticed them if they had been there. I have never seen the note until to-day since I paid it off.

9 Q. You are a professional book-keeper and have been engaged in the business, more or less, for the last 20 years, have you not?

A. Yes, sir.

10 Q. You have made handwriting and the examination of instruments a part of your study both while you were in office and out?

A. Yes, sir.

11 Q. Please state whether it is probable for you to have overlooked these letters J. W. D. the number of times you have had this note in your possession if they had been *they* there.

A. It is possible I might have overlooked them, but not probable, the number of times I have had that note in my hands.

Redirect examination by p'ff's att'y:

1 Q. I suppose the principal thing with you when the note was finally paid was the fact that it was paid, and you may state whether or not that is so.

A. Yes, sir.

2 Q. Where has this note been since it was paid up till to-day?

A. In my house.

3 Q. How many times have you examined the note since you paid it?

A. I never looked at it until to-day.

4 Q. What did you know of your own knowledge as to the financial condition of Joseph Hastings when he resided in Richland county?

A. I knew nothing of my own knowledge, only what I heard.

5 Q. How long was it after you first called on Mr. Hastings to make a loan of $300.00 that you finally made the loan of him?

A. I think it was in middle of March or 1st of April, and I got it some time in May.

6 Q. Did he or did he not at the time you got the money
153 in May say anything about having sold land or produce or anything else by means of which he was enabled to loan you the money?

A. No, sir; he did not. I met him on the street and he told me he could let me have that money now.

JOSEPH F. GUTZUILLER.

The further taking of these depositions is adjourned until Friday morning at (9) nine o'clock a. m.

H. F. BURKET,
Notary Public.

FRIDAY MORNING, *May 20th*, 1887—9 a. m.

The same parties being present as yesterday, the further taking of these depositions was resumed.—H. F. Burket, notary public.

Present: M. C. Whitely, for defendants, and R. H. Baker, for plaintiff.

JARED W. DILLMAN, the plaintiff, being duly sworn, testified as follows:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Jared W. Dillman; I am 45 years old; my occupation is that of a physician; my home is Philadelphia.

2 Q. Are you in any way connected with the United States Navy; and, if so, how long have you been so connected and in what capacity?

A. I have been off and on for fully 15 years in the medical corps, and am still.

3 Q. You are the complainant in this case, are you not?

A. Yes, sir.

4 Q. Are you the person referred to by Mr. Gutzuiller in his deposition who had the note, Exhibit L*l*, yesterday?

A. Yes, sir.

5 Q. How long did you have it?

A. Two or three hours.

6 Q. Did you or did you not affix to said note the letters J. W. D., or do you know of anybody's having affixed them?

Objected to by defendants' att'y.

—. I did not put any marks of any kind on it; neither did I notice any except those pertaining to the note proper, and do not know
of any one else having done so.

154 7 Q. When did you first see the letters J. W. D. on said note, if at any time?

A. Directly after Mr. Gutzuiller's attention had been called thereto.

8 Q. When was that?

A. During Mr. Gutzuiller's examination as a witness.

9 Q. Were you acquainted with Joseph Hastings; and, if so, for how long?

A. I was for about 17 or 18 years.

10 Q. State whether or not any correspondence passed between you and Mr. Hastings during that time.

Objected to by defendants' att'y.

A. There did.

11 Q. Have you or have you not in your possession any letters that you received from him or that purported to come from him?

Objected to by defendants' att'y.

A. I have some.

12 Q. Will you produce them?

(Objected to by defendants' att'y.)

A. I will. (Produces them.)

13 Q. Will you describe them in some way?

Objected to by d'f'ts' att'y.

A. They are the letters and papers already marked in this case for identification, marked Exhibit "A," H. F. Burket, notary public, and consecutively by the letters of the alphabet down to and including "K" and from "N" down to and including "X;" also a letter already referred to in the depositions of Henry H. Lauthan, marked for identification "K*k*;" also a letter dated Findlay, Ohio, October 17th, 1884, and marked for identification "N*n*;" also one dated Findlay, O., March 4th, 1884, marked for identification "O*o*;" also a letter dated Findlay, Ohio, June 1st, 1884, and marked for identification "P*p*:" also a letter dated Findlay, Ohio, July 16, 1885, and marked for identification Exhibit "Q*q*;" all of which I request the notary to attach to my deposition.

14 Q. State, if you can, when you received those letters.

Objected to by defendants' att'y.

A. I have been in correspondence ever since I have been acquainted with him, and I received these letters from him ever since up to the time of his death.

155 15 Q. When did you receive these letters with reference to their dates?

Objected to by defendants' att'y.

A. I received them pretty generally shortly after their date.

16 Q. Where have these letters been since you received them?

Objected to by defendants' att'y.

A. They have been in my possession.

17 Q. State whether or not you received other letters than these produced here from Mr. Hastings or purporting to come from him.

Objected to by defendants' att'y.

A. I did. Mr. Hastings and I had an extensive friendship correspondence. These letters, being of no value in my estimation, were

destroyed and lost, like many business letters that would now be of importance.

18 Q. State whether or not these letters produced here are all of the letters that you now have in your possession that you received from Mr. Hastings.

A. These are all; I have not a single additional letter.

19 Q. State whether or not you at any time wrote to Mr. Hastings.

Objected to by defendants' att'y.

A. I wrote to him very frequently.

20 Q. Look at the letters and postal cards I hand you, marked respectively Exhibit 1, H. F. Burket, notary public, and so on in regular numerical order to and including Exhibit 30, and tell me, if you can, in whose handwriting they are.

Objected to by defendants' att'y.

21 A. They are all in my handwriting and, so far as I can see in a hurried examination, all written in them was done by me.

22 Q. When were they written in reference to the dates they bear?

A. They were written on the dates they bear.

23 Q. State whether or not those are the only letters you wrote to him.

Objected to by defendants' att'y.

A. No, sir; I wrote many more to him.

156 24 Q. Do you remember the dates of any of the other letters?

Objected to by defendants' att'y.

A. I can recall one early in April, 1881; also one in the middle of December, 1885; two in the beginning of January, 1886, and one early in February, 1886.

25 Q. Did you or did you not keep any letter-press copies or other exact copies of those letters?

Objected to by defendants' att'y.

A. I never took the precaution to take letter-press copies, but retained ordinary copies of these letters last named in answer 24.

26 Q. These letters, Exhibits One to Thirty, being all the letters produced by the defendants herein in responce to our notices, and especially in responce to a notice served May 16th, 1887, and which notice I hand to the notary to be attached to this deposition, I will ask you if you have those copies with you; and, if so, will you please produce them?

Objected to by defendants' att'y.

A. Yes, sir.

27 Q. Will you hand those copies to the notary, giving him the dates and requesting him to attach them to your deposition?

Objected to by defendants' att'y.

A. They are dated Philadelphia, April 2d, 1881, which please mark Exhibit 31; also one dated Dec. 31, 1885, which please mark Exhibit 32; also one dated Philadelphia, January 7, 1886, which please mark Exhibit 33; also one dated Philadelphia, February 2d, 1886, which please mark Exhibit 34, and one dated Philadelphia, January 14, 1886, which please mark Exhibit "35."

28 Q. State whether or not you at any time sent to Mr. Hastings paper bearing the imprint of the Continental, J. E. Kingsley and Co., Phila., together with envelopes bearing the imprint of that hotel, on which to answer any of your letters.

157 Objected to by defendants' att'y.

A. I did. I frequently wrote letters in the Continental hotel, using the hotel paper, and on two occasions that I still remember, in order to save Mr. Hastings labor and time as well as to secure promptness in his reply, I enclosed blank letters post paid and addressed to myself of the same paper.

29 Q. State whether or not you ever demanded or requested of Mr. Hastings a statement of the amount of interest by him received or of the principal of loans made by him for you, and whether or not that statement was ever made.

Objected to by defendants' att'y.

A. I requested a statement in 1881, or rather sent him my statement and asked him how it corresponded with his; also on December 21st, 1885, I again requested him to send me a full statement of his account; that I was anxious to know the total sum to my credit on his books January 1st, 1886. I farther urged in subsequent letters statements of his account. No direct — were given or no full compliance with my request.

30 Q. Have you or not ever demanded of the administrators of the estate of *the estate of* Joseph Hastings, deceased, a statement of the account between Joseph Hastings and you?

A. I did.

31 Q. Was this statement ever made by them or was a settlement ever made by them?

A. They never made any such statement to me; neither was there any settlement made.

32 Q. State whether or not the sums of money mentioned in your letters to Mr. Hastings, Exhibits 1 to 30, were sent by you to him.

Objected to by defendants' att'y.

A. Yes, sir.

33 —. State whether or not any other sums of money were sent by you to him than mentioned in those letters.

Objected to by defendants' att'y.

158 A. Yes, sir; there were.

34 Q. State whether or not you kept an account book of the amount of money you sent him.

A. I did.

35 Q. Where is that book?

A. The book in which I kept the account of sendings a party took the liberty of carrying away with my satchel in 1878. I also kept an account book in which I noted the amount and time of receipt as acknowledged by Mr. Hastings in his letters to me.

Answer objected to by defendants' att'y.

36 Q. Have you any account book now in your possession showing the amounts of money sent by you to Mr. Hastings?

Objected to by defendants' att'y.

A. I have.

37 Q. Will you produce it and hand it to the notary and request him to mark it on the title page and on the page where the account with Mr. Hastings is Exhibit "*Rr*" and attach it to your deposition?

Objected to by defendants' att'y.

A. Yes, sir; I do (and it is marked Exhibit "*Rr*").

38 Q. By whom were these entries made?

(Objected to by def'ts' att'y.)

A. By myself.

39 Q. When were they made?

A. With the exception to the first few they were made directly after my receiving his acknowledgment of the sum and date so received.

Answer objected to by defendants' att'y.

40 Q. When were the first few entries you speak of made?

A. They were made at one time from his letters in my possession on return to Philadelphia, where this book was.

Answer objected to by defendants' att'y.

41 Q. When were the last two entries in it made?

A. They were made at the time they are here dated, February 12, 1886, and February 12, 1887.

Corrected by witness, who says, "Both were made February 12, 1887."

159 42 Q. State whether or not this is a book of original entries.

A. It is.

43 Q. State whether or not the account between you and Mr. Joseph Hastings or his estate is correctly stated in this account.

Objected to by defendants' att'y.

A. Yes, sir; it is.

44 Q. State whether or not any other sum of money or other thing of value has been received by you from Joseph Hastings or from any one representing him or his estate other than the sum of $700.00 stated in this account.

(Objected to by def'ts' att'y.)

A. Nothing whatever.

Cross-examined by defendants' attorney, M. C. WHITELY:

1 Q. How often did you see Mr. Joseph Hastings between March 10th, 1875, and February 12th, 1886?

A. I saw him once, to my recollection.

2 Q. Where?

A. In Philadelphia.

3 Q. When?

A. Somewhere the beginning of 1880.

4 Q. When did you next see him?

A. I saw him again in the beginning of February, 1886.

5 Q. What time in February?

A. About the 10th or 11th.

6 Q. You say in your examination-in-chief that you lost the book containing entries of your business transactions as there stated; state when you lost the same.

A. I lost it in August, 1878.

7 Q. Were the entries contained in Exhibit "*Rr*" and commencing March 10th, 1875, as shown by you here, made after or before you lost your former book?

A. Some before and some after.

8 Q. What part were made before?

A. I can't fix the exact number.

9 Q. With this book and account in the form as it appears in your possession what necessity was there for keeping another book, and why had you entries of the same transaction made in this book?

160 A. The other book was simply an ordinary diary, in which I always do keep a cash account, and this book was kept with a view of greater security than the diary which I always carried with me.

10 Q. You say in your examination-in-chief that the book in which you kept the account of money sent him was carried away in 1878; what difference did the carrying away of that book make if you at the same time had kept the account in this book?

A. It was not a very pleasant thing to lose it was about the only difference.

11 Q. Is not the account, Exhibit "*Rr*," given in your examination-in-chief, from March 10, 1875, to May 21st, 1881, both inclusive, with the heading thereto, written at the same time with the same pencil and by the same person?

A. It certainly is not. It is written by the same person and may have possibly been written by same pencil, but it was not written all at the same time. I am in the habit of having a pencil fastened in my note books, so that it is possible all or nearly all may have been written by the same pencil.

12 Q. At what time was it you made the demand of the administrators of Joseph Hastings for an account or settlement of your claim against the estate?

A. I urged them personally and by letter to produce their papers and I would produce mine and we would spread them on the table,

compare them, and we would decide what amount is due me as shown by both our papers

(The above answer is given under protest of defendants' counsel.)

12 Q. You say in your examination-in-chief that "you made demand of the administrators of Joseph Hastings to settle and allow your claim against the estate." Now, state what time that was that you made such demand.

161 A. If reference is had to my official demand such official paper will show; I do not know the exact date.

13 Q. Is the time mentioned in the paper which you call the official paper the same time that you refer to in reference to your demand in your examination-in-chief?

A. It is, if I understand the question properly.

14 Q. At the time that paper was presented to the administrators what evidence did you show or propose to show to the administrators that Joseph Hastings had received the several amounts of money as therein claimed?

A. I proposed to show such evidence as was necessary or required of me.

15 Q. How long before that paper was presented or how soon after did you see the administrators or either of them?

A. As to the length of time before, I saw the administrators the day they were appointed. The first time after the paper was presented was, I think, last fall. I saw John, I think, in October.

16 Q. If you did not see them when the paper was presented, how do you know that any offer was made to furnish evidence or vouchers of the correctness of the claim?

A. I had sufficient confidence as to the persons presenting it to be satisfied in my own mind that such vouchers were presented with the claim.

17 Q. The vouchers which you claim to hold as evidence of this receipt of the money by Joseph Hastings consisted, as you claimed, of original letters of his held by you. Now, were you not advised at the time that the administrators demanded an inspection of all such letters as you claimed to hold?

Objected to by plaintiff's att'y.

A. I was advised and understood that copies of those letters was all that was required in the way of vouchers.

162 18 Q. When you were so advised did you not refuse to allow the administrators to inspect any of said letters which you claimed to hold?

A. Because of the administrators refusing to show me any papers I inferred that I had the same right to withhold my papers, and stated or wrote to my attorney that unless law or good reason were given why the administrators should inspect my letters I could not consent to doing so, but if law and good reason were given they should have an opportunity of inspecting every letter or paper I held.

19 Q. Did you not direct the person with whom you were corre-

sponding about the matter not to allow the administrators or their attorneys to see any of said letters?

A. As stated before, I informed him if, by law or good reason, they had a right to inspect my letters, I would forward every paper I had and they should see all I had.

20 Q. You say you knew by the indorsement made on the back of your account that the administrators demanded an inspection of your letters. Did you ever furnish said original letters to them for inspection?

A. By that endorsement I understood as I did by all information up to that period that copies of the letters were sufficient as vouchers. I was later informed that they wished to inspect the original letters and furnished them for that purpose.

21 Q. Did you at any time before the commencement of this suit furnish to the administrators the original letters which you claimed to have and allow them to inspect them?

A. For the reason that I did not understand that the original letters were required, I did not.

22 Q. Did not Mr. Burket advise you that we (the administrators) demanded an inspection of the original letters; and, further, that the administrators had the right to see them, and did
163 you not refuse to allow him to show us the original letters, but instructed him to furnish copies merely?

Objected to by plaintiff's att'y.

A. He did write to me that they required vouchers, and my letters were the only vouchers I had, and that they wished to see them, and I wrote to him that if there was law or good reason that they should see them none of my papers should be withheld from them, and I never informed him that he should furnish copies merely, but I understood that copies were all that were required.

23 Q. Were you not informed that the administrators declined to receive copies of said letters merely as vouchers, and did you not then instruct Mr. Burket not to allow the administrators to see the originals?

Objected to by plaintiffs' att'y.

A. Emphatically, no, sir.

24 Q. You say you understood copies of said letters to be furnished by Mr. Burket to said administrators. Now, why did you not furnish copies of the letters of December 28, 1885, and of January 8th, 1886?

A. I had some letters lying by that I afterwards found, and also I had some letters that I did not pertain to business matters whatever, and for this reason these letters, like those handed in this morning, were not presented before.

25 Q. Were not these two letters in the hands of Mr. Burket at the time he copied the others, and did you not instruct him not to copy them?

Objected to by plaintiffs' att'y.

A. I gave Mr. Barket all the letters I had at the time or knew I had. As to whether he had or had not these particular letters referred to I cannot say, but I am positively certain that I never instructed Mr. Burket to withhold the copy of any letter.

26 Q. These two last letters spoken of were the last ones but
164 one that had been received by you, as you say, from Mr. Hastings. Now, how do you account for overlooking those at the time you were furnishing administrators copies in proof of your claim?

A. The former answer is a mistake, as they were furnished and copies of them made by Mr. J. F. Burket.

27 Q. Did you ever show to the administrators of Joseph Hastings the book marked Exhibit "R*r*," which you produce on your examination here to-day?

A. I do not remember at all of showing it to them.

29 Q. What sort of a book, if any, did you show to them?

A. I have no recollection of showing them any book. I had with me another small note book. They may have seen that; I cannot say.

30 Q. Describe that other book that you had with you.

A. A book about 3 by 2 inches in size, a reddish cover, gilt-edged paper.

31 Q. Did you not show them this last book and state to them that that contained all the accounts you had against Joseph Hastings?

A. That brings it to my mind. I did show them that book in which I had a copy of my account and which I read to one of the administrators—my account in full—for him to calculate the interest thereon and ascertain what my account was, in his opinion. In answer to last part of question, I did not so state to him.

32 Q. Was that before or after he was appointed administrator?

A. It was before.

33 Q. Did you show the defendants or either of them any of the letters which you claimed to have from Joseph Hastings at that time?

A. I did show them some letters and read some to them, but do not remember of doing it at that particular time.

165 34 Q. You say that you frequently sent papers and envelopes duly addressed to said Joseph Hastings from Philadelphia to have prompt replies. Were all the envelopes you sent him addressed to yourself and postage prepaid?

A. I have no recollection of ever saying so. This is unfair, embodying several questions in one. To the first I will reply that I sent him two blank letters referred to, postpaid and addressed to myself.

35 Q. Did you at any time send him any other such blank paper and envelopes?

A. I think I did. I have done it to others.

36 Q. At what time was it that you sent the two you just mentioned?

A. On the 21st of December, 1885, I sent him one such letter and

stated in letter the purpose for which it was sent, and another on January 4th, 1886, was the same sort of a letter.

37 Q. How much of the time since July, 1855, have you been connected with the naval service, if at all, and in what capacity?

A. I was in the naval service all the time with the exception of about two years. I was in the naval service as surgeon of the navy.

38 Q. Describe your official position in the naval service and the monthly or yearly pay attached to your office.

A. On first entering I received a little over $1,400.00 per year when on sea duty. Shore duty and leave of absence are about $200.00 less. Later, then, full sea pay was about $1,900.00; for shore duty about $200 less. This is what I received.

39 Q. How long did you serve before your pay was raised above $1,400.00?

A. It was 5 (five) years.

40 Q. What part of that 5 years was devoted to sea duty and what part to land duty?

A. I don't remember.

41 Q. How long after the 5 years were you in the service?

A. I don't remember.

42 Q. What proportion of the time after the first five years did you draw $1,900.00 and what proportion less?

A. I don't remember.

166 43 Q. When did you leave the service?

A. I have never left it entirely.

44 Q. What do you mean by not having left it entirely?

A. I mean that I have never entirely severed my connection with it.

45 Q. Are you now surgeon in the Navy of the United States, subject to the orders of any officer of the naval department?

A. I am not at the present time.

46 Q. At what time did you cease being subject to such orders?

A. I don't remember.

47 Q. How much of the time since 1875 have you been subject to the order of any officer of the naval department?

A. I don't remember.

48 Q. What was your office in the naval service called?

A. I entered as assistant surgeon. Then I was past assistant surgeon, which position I now hold nominally.

49 Q. When were you promoted to past assistant surgeon?

A. I don't remember.

50 Q. Can you give about the year?

A. I don't remember.

51 Q. Does your name appear in the naval roster or list of officers in the navy at any time since 1875?

A. It has.

52 Q. What years does it so appear?

A. I don't remember.

53 Q. Were you or not in Hancock county when Joseph Hastings died?

A. I was.

54 Q. Did you not tell divers persons with whom you conversed at that time that you were then and had been for a long time a surgeon in the United States Army?

A. I positively did not.

55 Q. What reason had you for copying the four letters exhibited by you to-day and not copying any others?

A. Because I just became aware of the fact that it might be necessary to have copies.

56 Q. Why did you not regard it equally important to keep
167 copies of letters which you claimed to have sent to Mr. Hastings after the date of these?

A. I sent him none after these letters.

57 Q. I see upon these copies letters purporting to be dated December 21, 1885, and Jan'y 4th, 1886. At which dates were these letters written?

A. This letter is dated Philadelphia, Dec. 21, 1885, and the one copied on other side is dated Jan'y 4th, 1886. They were written on their respective dates.

58 Q. I find a letter of January 7th, 1886, and one of January 14th, 1886, on the same copy sheet. When were those letters written?

A. They were written on their respective dates.

59 Q. One of the copies presented by you appears to be dated April 2d, 1881. Why did you not regard it necessary to copy any letters between that date and December 21st, 1885?

A. Because they were not of such importance.

60 Q. Is that the only reason you had for not copying any other letters?

A. There were other letters of sufficient importance and a number of which I did take copies, but on looking up my papers I found none but these recent ones.

61 Q. Did or not Mr. Hastings usually reply to your letters and did you reply to his?

A. As a rule this was done.

62 Q. If that be so how does it come that you claim that you sent him a great many more letters that can be now found, and that you have so few of letters of his?

A. As for the finding I can say nothing, but I am very positive that I have written him many more letters than have been produced. I have been away from home, located at different places, with very imperfect facilities for preserving letters, and consequently I could not well preserve all.

168 63 Q. Was it not as easy to preserve those that you say have got away from you as the ones you kept?

A. It would be no less easy to keep one than another if they were deemed of the same importance and accidents did not befall some and a loss follow while it does not to others.

64 Q. Is that the only reason you can give for having some of the letters and not all?

A. I can't think of having any other reason at the present time.

Redirect examination by plaintiff's att'y:

1 Q. What did the bulk of the other letters you rec'd from Mr. Hastings consist of?

Objected to by defendants' att'y.

A. Largely friendship letters; some pertaining to money matters.

2 Q. About what time was it that you entered the Navy Department?

A. I first entered the navy the spring of 1865.

3 Q. In what capacity?

A. As assistant surgeon.

4 Q. At what salary?

A. Between $1,400.00 and $1,500.00 for sea service.

5 Q. About how long did you occupy the position of assistant surgeon?

A. About three years at that time.

6 Q. Then what did you do?

A. I spent a part of the two following years in Europe as assistant surgeon in the German army.

7 Q. What, if any, salary did you get in that position?

A. I got $3.50 per day.

8 Q. When did you again enter the U. S. naval service?

A. In 1873.

9 Q. In what capacity and at what salary?

A. Same capacity and same salary.

10 Q. How long did you occupy that position?

A. Five years—until promotion to post assistant, when my salary was increased.

11 Q. How long have you held the position of post assistant surgeon, and at what salary?

A. Up to 1884, at $1,900.00.

12 Q. Since 1884 what relation, if any, have you held to
169 the United States Navy?

A. None.

13 Q. Then I understand you are not connected with the navy at the present time?

A. Not directly.

14 Q. In your cross-examination, in answer to question- 24 and 25, what letters did you refer to?

A. I was referring to those letters handed in this morning.

15 Q. You speak, in your cross-examination, of offering to show your letters and papers to the administrators provided they would show theirs to you, and you spread them down and determine from all of the papers the amount *do* you. Now, when was this?

Objected to by defendants' att'y.

A. I made that offer both written and orally about the 25th of March, 1886, I think.

16 Q. State whether or not Mr. J. S. Burket acted as your attorney in this matter at the time of the filing of the claim with the administrators.

A. Yes, sir; he did.

17 Q. Tell what your reason was for not wishing your original papers to go into the hands of the administrators when your claim was filed with them?

A. I was under the impression that they had no legal right to inspect them, and since they refused to show theirs I supposed that by withholding mine I might thereby induce them to spread theirs by the side of mine, as originally offered them.

Answer objected to by defendants' att'y.

18 Q. When you offered to show them your letters and papers in March, 1886, was the note book, Exhibit "*Rr*," one of the papers you would have shown them?

Objected to by def'ts' att'y.

A. I would have shown them all books and papers I had.

19 Q. Was the other account book you read to them from and that you speak of in your cross-examination a book that entries we made in at the time you sent money or was it copied from something else?

170 A. It was merely a leaf upon which I had a copy of the other book and carried it in this small book for convenience.

20 Q. In your cross-examination you speak of having sent to Mr. Hastings from Philadelphia on two occasions envelopes addressed to yourself with blank letters enclosed; did you mean blank letters or blank paper?

A. Blank paper.

Recross-examined by defendants' attorney:

1 Q. To whom was the offer made to show and compare papers for the purpose of a settlement spoken of by you in your re-examination?

A. To both the administrators (not positive as to Reimund).

2 Q. Where was that (referring to question 15 in redirect examination)?

A. It was in the probate judge's office.

3 Q. Did that occur in the probate judge's office more than once?

A. I cannot say that it did.

4 Q. Was that offer that you would spread the papers down before the administrators and that they and you settle the matter or was it that both parties should spread their papers before some third person and let them settle it?

A. At that — I meant that we would settle it.

5 Q. Did you show them the note book, Exhibit "*Rr*," at that time?

A. Neither they nor I showed any papers at that time.

J. W. DILLMAN.

THE STATE OF OHIO, } ss:
Hancock County, }

I, H. T. Burket, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that

the above-named Henry H. Louthan, Joseph F. Gutzuiller, Jared W. Dillman were by me severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed as above set forth were re-
171 duced to writing by myself and in the presence of the witnesses respectively, and were subscribed by said witnesses in my presence, and were taken at the time and place in the annexed notice specified and continued from day to day, as set forth. I do further certify that I am not counsel, attorney, or relative of either party or otherwise interested in the event of this suit.

In witness whereof I have hereunto set my hand and seal of office this 20 day of May, A. D. 1887.

[SEAL.] H. T. BURKET,
Notary Public.

It is hereby stipulated and agreed that depositions may be taken under the above notice before H. F. Burket, a notary public in and for the county of Hancock and State of Ohio, and that all other notices, prerequisites, and forms required by law or rule of court for the taking of testimony are waived and testimony taken under the foregoing notice shall be received in evidence the same as if all such legal requirements and formalities were fully complied with, subject to objection for incompetency or irrelevancy.

Findlay, May 19th, 1887.

BAKER, SMITH & BAKER,
Sol's for Compl.
WHITELY AND BOPE,
Sol's for Def'ts.

H. F. B.

It is hereby stipulated and agreed by and between the parties to this action that the letters and papers referred to in the foregoing depositions marked as exhibits that are not attached thereto are not to be attached, but are to be kept for the use of both parties in the further taking of testimony in this case; and it is further agreed that said letters and papers are to be treated and used in the trial of this cause in the same manner as they could be used if attached
172 to all depositions in which they are referred to.

Findlay, Ohio, May 20, 1887.

BAKER, SMITH AND BAKER,
Sol's for Compl.
WHITELY AND BOPE,
Sol's for Def'ts.

In the Circuit Court of the United States, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants. } No. 529.

The said Jared W. Dillman demands of the defendants the original letters enumerated below or copies of the same that he believes are in the possession of the said defendants, said letters having been written by the said Jared W. Dillman to Joseph Hastings, and which said letters contain evidence relating to the merits of his action herein. Said letters are dated as follows: September 8, 1874; December 3, 1874; March 23, 1875; December 30, 1875; June 9, 1879; April 2, 1881; February 18, 1883; December 21, 1885; January 4, 1886; January 7, 1886, and February 2, 1886.

He also believes that said defendants have in their possession a paper in the handwriting of Joseph Hastings containing an abstract of the notes and moneys held by him for this complainant, Jared W. Dillman, and made by said Hastings on or about December 21, 1885, the said abstract being on a piece of brown or yellow wrapping paper.

He also believes that the said defendants have in their possession note books containing memoranda and minutes of moneys
173 received by said Joseph Hastings for this complainant, which said paper containing abstracts of notes and said note books contain evidence relating to the merits of this his said action, and he demands of said defendants an inspection of each and every of said letters, of said abstract of notes, and of said note books or copies of the same; and, on failure of said defendants so to furnish him with such copies of said letters, abstract of notes, and note books or with the originals, he will introduce secondary evidence as to their contents.

BAKER, SMITH AND BAKER,
Att'ys for Compl.

I acknowledge service of the above by copy this 16th day of May, 1887.

W. D. SHAFER,
WHITELY AND BOPE,
Sol's for Def'ts.

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators, etc., Defendants. } No. 529.

It is admitted by the defendants that the letters attached to this

deposition were found among the papers of the late Joseph Hastings after his death. Said letters are dated and marked for identification as follows:

New Orleans, March 5, 1875, "Exhibit 1, H. F. Burket, notary public;" New Orleans, April 1, 1875, "Exhibit 2, H. F. Burket, notary public;" New Orleans, May 31, 1875, "Exhibit 3, H. F. Burket, notary public;" New Orleans, July 8, 1875, "Exhibit 4, H. F. Burket, notary public;" New Orleans, December 17, 1875, "Exhibit 5, H. F. Burket, notary public;" Philadelphia, Pa., Dec. 22, 1876, "Exhibit 6, H. F. Burket, notary public;" Philadelphia, Pa., May 2, 1878, "Exhibit 7, H. F. Burket, notary public;" Long Branch,
174 Aug. 26, 1878, "Exhibit 8, H. F. Burket, notary public;" Philadelphia, Pa., M'ch 7, 1879, "Exhibit 9, H. F. Burket, notary public;" Philadelphia, Pa., May 3, 1879, "Exhibit 10, H. F. Burket, notary public;" Atlantic City, Sept. 30, 1879, "Exhibit 11, H. F. Burket, notary public;" Philadelphia, Pa. (postal), Oct. 11, 1879, "Exhibit 12, H. F. Burket, notary public;" Philadelphia, Pa., Oct. 4, 1879, "Exhibit 13, H. F. Burket, notary public;" Philadelphia, Pa., Oct. 4, 1879, "Exhibit 14, H. F. Burket, notary public;" Philadelphia, Oct. 12, 1879 (postal), "Exhibit 15, H. F. Burket, notary public;" Philadelphia, Pa., Dec. 3, 1879, "Exhibit 16, H. F. Burket, notary public;" Philadelphia, Pa., Dec. 15, 1879, "Exhibit 17, H. F. Burket, notary public;" Philadelphia, Pa., Dec. 22, 1879, "Exhibit 18, H. F. Burket, notary public;" Philadelphia, Pa., M'ch 5, 1880, "Exhibit 19, H. F. Burket, notary public;" Philadelphia, Pa., March 22, 1881, "Exhibit 20, H. F. Burket, notary public;" Philadelphia, Pa., May 23, 1881, "Exhibit 21, H. F. Burket, notary public;" Philadelphia, Pa., Nov. 25, 1882, "Exhibit 22, H. F. Burket, notary public;" Philadelphia, Pa., Oct. 12, 1884, "Exhibit 23, H. F. Burket, notary public;" Philadelphia, Pa., Oct. 30, 1884, "Exhibit 24, H. F. Burket, notary public;" Philadelphia, Pa., Dec. 6, 1884, "Exhibit 25, H. F. Burket, notary public;" Philadelphia, Pa., Jan. 6, 1885, "Exhibit 26, H. F. Burket, notary public;" Philadelphia, Pa., April 21, 1885, "Exhibit 27, H. F. Burket, notary public;" Philadelphia, Pa., May 22, 1885, "Exhibit 28, H. F. Burket, notary public;" Philadelphia, Pa., Oct. 5, 1885, "Exhibit 29, H. F. Burket, notary public;" Philadelphia, Pa., Nov. 21, 1885, "Exhibit 30, H. F. Burket, notary public;" and it is further agreed by defendants and complainants herein that this admission may be attached to the depositions taken under the notice dated May 19, 1887.

Findlay, Ohio, May 19, 1887.

WHITELY AND BOPE,
Att'ys for Def'ts.
BAKER, SMITH AND BAKER,
Sol's for Compl.

EXHIBIT "K*k*." H. F. Burket, Notary Public.

FINDLAY, O., *May* 7, 1885.

Dr. J. W. Dillman, M. D.

175 D'R SIR AND BRO.: I received your very kind letter re-

cently; glad to hear you were enjoying so good health; long may you continue it. Last winter, after — had got pretty well over the paralytic stroke, the asthma set in and fastened me to the chair for about five weeks, day and night, & then when the Doc. had gotten that pretty well under control I noticed my shoes were getting rather small for me, & on looking found my feet & legs most to my knees were swollen about as full as the skin would hold. Well, now, that is reduced untill I can wear my shoes again, & if the weather would settle & warm I think I could get around again pretty —, but the way I have been overhauled this winter I don't expect ever to do much hard work again. I have been thinking of writing you for some time and asking your opinion. Some friends are urging me to go to mineral springs & stay a few weeks and enjoy a season of bathing. They seem to think that to be the only thing to help me permanently; others think it will do little or no good. I would like your opinion, if you please. The winter & spring has been unusually cold. Nothing very new. A young man from your — came here & bought a car-load of horses. My son-in-law sold 2 for $320. He is back again to buy another car. My son has a colt 7 months old; he has been offered $120 for it. It's said he — the best colt of its age in — county. They — drilling the gas wells here under contract; 2 more to drill. Will you please to excuse my neglect in writing. My children have written letters for me. This winter shall be pleased to hear from you often.

Fraternally yours, J. HASTINGS.

EXHIBIT "LL." H. F. Burket, Notary Public.

$306.00. FINDLAY, O., *May* 8, 1878.

176 One year after date I promise to pay to Joseph Hastings or order the sum of three hundred and six dollars, with interest at 8 % from date.

JOSEPH F. GUTZUILLER.

Endorsed as follows:
Note, $306. Due May 8, 1879.

Received on the within thirty dollars, being am't of interest due on the within note to and including May 8th, 1879.
Findlay, Ohio, May 17th, 1879.

Received on the within thirty dollars, being am't of interest due on the within note to and including May 8th, 1880.
Also received one hundred and seventy dollars on the principal sum secured by the within note.
Findlay, O., May 24th, 1880.

May 8, 1881.—Rec. on the within thirteen dollars, being amount of interest due to this date.
Findlay, O., April 8, '82.—Rec. on the within eleven and $\frac{85}{100}$ dollars, being amount of interest due to this date.

EXHIBIT "M*m*." H. F. Burket, Notary Public.

Mortgage Deed.

Know all men by these presents that we, Joseph F. Gutzuiller and Delia S. Gutzuiller, his wife, the grantors, for the consideration of three hundred and six dollars, received to our full satisfaction of Joseph Hastings, the grantee, do give, grant, bargain, sell, and convey unto the said grantee, his heirs and assigns, the following-described premises, situated in the village of Findlay, county of Hancock and State of Ohio, and known as *in*lot number sixty-two (62), in Byal's second addition to the village of Findlay, be the same more or less, but subject to all legal highways; to have and to hold the above granted and bargained premises, with the ap-urtenances thereunto belonging, unto the said grantee, his heirs and assigns forever; and we, the said grantors, do, for ourselves and our
177 heirs, executors, and administrators, covenant with the said grantee, his heirs and assigns, *and* at and until the *the* unsealing of these presents we were well seized of the above-described premises as a good and indefeas*a*ble estate in fee simple and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all encumbrances whatsoever, and will warrant and defend said premises, with the appurtenances thereunto belonging, to the said grantee, his heirs and assigns forever, against all lawful claims and demands whatsoever.

And I, the said Delia S. Gutzuiller, wife — said Joseph F. Gutzuiller, do hereby remise, release, and forever quitclaim unto the said grantee and his heirs and assigns all my right and title of dower in the above-described premises.

The condition of this deed is such that whereas the said Joseph F. Gutzuiller has executed and delivered to the said Joseph Hastings his certain promissory note, of even date herewith, calling for three hundred and six dollars, payable one year from the date thereof, with interest at 8 % per annum from date: Now, if the said Joseph F. Gutzuiller, his heirs and assigns, executors or administrators, shall well and truly pay the aforesaid promissory note, according to the tenor thereof, to the said Joseph Hastings, his heirs and assigns, then the above deed shall be void; otherwise the same shall remain in full force and virtue in law.

In witness whereof we hereunto set our hands and seals the 8 day of May, in the year of our Lord one thousand eight hundred and seventy-eight.

JOSEPH F. GUTZUILLER. [SEAL.]
DELIA S. GUTZUILLER. [SEAL.]

Signed, sealed, and delivered in the presence of—
DELIA CARR.
JOHN POE.

178 THE STATE OF OHIO, } ss:
Hancock County, }

Before me, a notary public in and for said county, personally appeared the above-named Joseph F. Gutzuiller and Delia S. Gutzuiller, who acknowledged that they did sign and seal the foregoing instrument and that the same is their free act and deed. I further certify that I did examine the said Delia S. Gutzuiller separate and apart from her said husband, and did then and there make known to her the contents of the foregoing instrument, and upon that examination she declared that she did voluntarily sign, seal, and acknowledge the same, and that she is still satisfied therewith.

In testimony whereof I have hereunto set my hand and official seal this 8 day of May, A. D. 1878.

JOHN POE, [SEAL.]
Notary Public.

April 11, 1882.

The conditions of this mortgage have been complied with, and the same is hereby satisfied and discharged.

J. HASTINGS.

Attest: HUGH M. DUGAN.

Release filed and recorded April 11, 1882.

JOHN F. GUTZUILLER,
Recorder, H. C., O.

Mortgage deed from Joseph Gutzuiller and wife to Joseph Hastings. Received for record May 8, 1878, at 9.50 o'clock a. m. Recorded May 9, 1878, in Hancock County Mortgage Records, volume 17, page 377. Joseph F. Gutzuiller, recorder.

EXHIBIT "*Nn.*"

FINDLAY, OHIO, *Oct.* 17, 1884.

J. W. Dillman, M. D.

179 MY DEAR SIR & BRO.: Your kind letter was rec'd in due time & was a truly welcome messenger. I suppose you could not have rec'd my last letter, but I will try again in answer to the Harlem question. We held a meeting — Terre Haute, Ind., on 2 of last June. 10 State- were represented there. The meeting adjourned to meet in N. Y. Oct. 1 last, but for good reasons that meeting was continued to Dec. 15th & to meet in Washington city. I now expect to be there, & if you should have business there at that time shall be pleased to meet you. A part of the reasons for meeting in Dec. is this: The Gov't engineer, as I am informed, has made a partial survey & estimate for the work & recommends to Congress to go — work & dig the canal; hence our meeting there in Dec'r, so as to lay our matter before the proper committee as best we can. As regards the Trinity, that is being agitated by others just now; we at this time are only working for the Harlem. Our summer has been hot and dry & no cold weather yet, only one frost. Wheat in

the ground never looking better at this season of the year. As to politicks, the Oct. election is past, & yet I am of the opinion Cleveland will be elected here in Ohio. It has seamed as though everything in the whol- country has been brought here, with pockets filled of money to distribute. Men here hired to walk in procession for $2.00. I think a vast amount of money has been used as corruption money in Ohio. My son John has had the *irreseplis* in leg for a month or more; can be around some now with crutches when weather is good; the rest are well. I shall write you again before 15 of Dec., when I am sure of the meeting being held at that time. My health is better than when I was with you in Phila. We are all glad to hear of your —. I spent 3 weeks in Sept. along the Ohio, in vicinity Wheeling, West Virginia.

Yours truly, J. HASTINGS.

Please accept thanks for numerous n'papers.

180 EXHIBIT "*Oo.*"

FINDLAY, O., *March 4th*, 1884.

Dr. J. W. Dillman.

MY DEAR OLD FRIEND: I wrote you awhile ago, saying I expected to be in Washington city on 7 of March, but they have concluded now, I believe, to hold their meeting some time from the 21st to 25th of March. I thought if you had business in Washington about that time we might see each other for awhile. I am sorry I cannot to-day just say what day and at what house they will meet. Our business, I hear, has got before the House committee; that is about all I know about it. No preventing Providence, I expect to be in Washington when that meeting comes off. Our folks are well as usual. Some of us have colds, but I think nothing serious. Accept thanks for recent papers. The weather is fearful cold here just now.

EXHIBIT "*Pp.*"

FINDLAY, O., *June* 21, 1884.

Dr. J. W. Dillman.

MY DEAR SIR: Permit me to drop you a few lines to say we are all enjoying our usual health. I hope this will find you well. Wheat is middling good; some very good and some very poor. In Richland Co. their wheat looks excellent; corn, oats, & grass good. I was in Terre Haute, Indiana, on June 1, 1884. The syndicate & advisory board held a joint meeting. About 250 heirs of the Harlem claimants were in attendance; had a very pleasant meeting. That the interest is not lagging, I may say to you there — parties present from 10 States. When the meeting adjourned it was to meet in N. Y. city Oct. 1, 1884. No preventing Providence, I expect to be there. There will probably be several of us together. We — probably reach Philad. the last day of Sept. I shall write you again near that time. We may not be permitted to stop

long in Philad.—no longer than the train allows—yet if
181 your engagements are such that you can be at the station
should be pleased to meet you if for only a few minutes. I will add that I think we shall make a nice thing of it for the heirs yet. Parties attended the meeting from N. Y. city & Jamestown, N. Y., & from Tennessee. I represent parties from Indiana, Ill., Arkansas, Missouri, Iowa, Kansas, Michigan, & largely from Ohio. Just now the weather is very warm here with us. The nomination of Blain- & Logan does not arouse the people either in Indiana or Ohio, where I have been, as I have known such things to do. Please accept thanks for the papers you have sent me.

I remain yours truly, J. HASTINGS.

EXHIBIT "*Qq*."

FINDLAY, O., *July* 16, 1885.

Dr. J. W. Dillman.

MY DEAR SIR & BRO.: I hope you will pardon the long laps- of time since I rec'd your very kind & thrice-welcome letter. It gave me great satisfaction to read it & it confirmed my opinion about the bath. I heartily thank you for your letter. Well, now I will tell you how I am improving. This morning, for the first time in over 7 months, I put on my stockings & shoes & went out to the tub and washed my hands & face. The rest are all well. If I had felt like taking so long a trip I could have called upon you the first inst., as the board met in N. Y. July 1; but I thought I was not strong enough. I hope you made the acquaintance of our Findlay soldier boys at the encampment. The season has been rather cool, yet some very hot weather. Wheat good; grass & oat- good; corn nothing extra; very few apples here; potatoes look well; wheat-cutting & hay-making pretty well over. Again there is talk of the new R. R. from N. Y. to Chicago running through Findlay. It has been surveyed t-rough my place on ten different lines, so, whether it comes through Findlay or not, it will go through
182 my place, I think. Wheat has been rather low for brisk times, but I hear they will start in buying new wheat at $1 per bushel & there is a good crop in this Co., which will set the wheels rolling again, I think. The natural gas continues to keep up the excitement. One man here owns 3 out of 4 of the wells & he is putting down 2 more. There is considerable talk about manufactories coming here, but I don't see them yet. They have organized another Co. to drill a hole 4 or 5,000 feet, unless compelled to stop sooner, their object being oil or salt. They drilled one, &, to keep the salt water out, they filled 75 feet of it. One of their wells now yields from 5 to 10 barrels of oil per day, so I am told. They will build a new court-house next season here. They are build- a new State prison at Mansfield. Please write when convenient.

Fraternally yours, J. HASTINGS.

Letters of J. Hastings to Complainant.

183 No. 1. EXHIBIT "N." H. F. Burket, Notary Public.

FINDLAY, O., *Dec'r 14th*, 1875.

Dr. J. W. Dillman.

D'R SIR & BRO.: I again take my pen to write you a few lines, hoping they will find you well. We are all well. Kind sir, when I have been receiving your money I deposited it in bank, being almost a stranger here, at 10 per ct. per annum. I had no chances at once to lend to farmers, but now I have found where I think I can lend it all. I have been offered the following conditions by one man who wants $600 for one year: He will take $98 for $100, which is 2 per ct. off, & then 8 per ct., payable semi-annually; *i. e.*, he will pay 2 per cent. in advance & the remaining 8 per cent. semi-annually, & he will pay the expense of making & recording the mortgage. I think I can loan $2,600 to 3 men in that way & have it amply secured by mortgage. I await your orders before I promise these men positively. I am not over-friendly to banks myself, & several *& several* are failing through the county. I don't know what changes in banks the coming year; the acts of Congress may have much to do with it. I wish you would write to me at once & say whether I shall let your money remain in bank or loan it to farmers with real estate for security, so I may know what to tell these men. I have but little neighborhood news. Miss Lizzie Douglass, I hear, had a young son one month after she was married. It affected our friend Douglass very much. Accept my thanks for the many papers you are so kind as to send me. Please write soon & often.

Yours truly, J. HASTINGS.

184 No. 2. EXHIBIT "O." H. F. Burket, Notary Public.

FINDLAY, O., *Dec'r* 27, 1875.

Dr. J. W. Dillman.

D'R SIR & BRO.: Yours of the 17th inst. was rec'd on the eve of the 24th, containing 4 one-hundred-dollar bills, and I hasten to inform you of their safe arrival. We were glad to hear of your good health, & hope this may find you continuing to enjoy it. We are all enjoying our usual health. Thus far, the winter been warm & very wet, consequently the roads are very muddy. It has been so very wet as to retard the husking of corn very much. I have 3 acres to husk yet, & my brother-in-law has 11 or 12 acres on my land to husk yet, of which I get a share as soon as the bank certificates becomes due. I think I have a safe thing on land security for you, & I will try & do the best I can for you. Since I wrote you there has been a heavy failure of a dry-goods firm; liabilities said to be about $85,000, the debts mostly due to farmers in this county. It's the 1st heavy failure in Findlay, & they say there will not be any more, they think. It has created a kind of panic*a* fe*a*ling, & I think will cause those having money loaned to collect & invest in land.

Christmas day was pleasant, & I husked with 3 hands; have considerable to haul in that is covered with corn fodder. Well, yesterday we had three heavy thunder showers & this morning is pleasant. My 2 pieces of land here are separated by an 80-acre lot; no better improvements than I have, & lately he offered to sell at $85 per acre. I think my land worth as much as his. I merely mention this that you may know how land is held here. A farm 3 miles further from town than I am sold a few days ago for $75 per acre. Please write often.

I remain yours fraternally, J. HASTINGS.

Box 604 is my number.

185 No. 3. EXHIBIT "P." H. F. Burket, Notary Public.

FINDLAY, O., *Nov. 27th*, 1876.

Dr. J. W. Dillman.

D'R SIR & BRO.: Yours of Nov. 7th come here when I was away from home, but I am here all right, so I answer. In answering the main question I give the following figures, to wit:

March	10,	1875		$1,800
April	2,	"		200
June	1,	"		200
July	10,	"	draft for 200 sold for	199
Dec.	18,	"		400
July	30,	1876		500
Nov.	17,	"		500
				$3,799

The above *above* I believe to be a correct statement of am't rec'd, & I have a mortgage for $1,000 on a farm valued at $6,000, another mortgage on a farm valued at $12,000 for $1,534.00, and another mortgage for $800 on farm valued at $12,000, & the rest in small notes secured by bail that is considered good. It all draws 10 per cent. interest. It is not difficult to lend money at 10 per cent. & have it well secured. I have sold all my land in Richland & my son is now with me, so I once more have my family together. None of us were at Phila. this season; was not situated so I could go. Frank Tucker & wife & sister, A. Tucker & wife, I. I. Douglas, 2 of the Rummel boys were there from the valley. A great many went from here. I think it is remarkable that you have lived in the South so long & enjoyed good health all the time. I think you are quite rash venturing so much among the yellow fever, & I hope you will do so no more. I do not want you to expose yourself thus recklessly. I sold the balance of my farm for $6,900; the
186 times are dull & very hard to sell land at any price. I now have enough coming to me to pay off here & put up some buildings, which we much need. Have you left N. O. for good & have you located in Phil'd'a to practice? In the event of an European war I trust you will not venture abroad. It looks as though

we might have serious trouble here at home about the election; hope all will pass off quietly, & think it will if justice takes place. I think there is no doubt of Tilden's election by the people. Mr. J. J. Douglass is awfully excited over the election. I take it more coolly. My wheat in the ground looks well. Please write often & put on the No. of box 604, as there is another family of Hastings here. All are well.

Yours truly, J. HASTINGS.

Box 604.

No. 4. EXHIBIT "Q." H. F. Burket, Notary Public.

FINDLAY, O., *Dec'r* —, 1876.

J. W. Dillman, M. D.

D'R SIR & BRO.: Yours of recent date has come to hand, saying you had failed to receive my letter. Yours of Nov. 7th, containing $500, come duly to hand; has been put out at 10 per cent. interest: You asked me how much you had sent me, which I answered, but will again. I have received from you altogether, if I have made no mistake, $3,799, which is all at interest; $3,334 of it is secured by first mortgages & the balance by good personal security, which I think safe. My son has moved here, & his house is about 20 rods from the one I live in. I understand you are coming here before spring; shall be glad to see you when you reach Findlay; enquire for Dr. W. M. Detwiler & he will direct you to my house. You will find the Joy house a good place to stop at in Findlay. I am in a great hurry to take a friend of mine from Mansfield to Findlay to see the town. Excuse this short letter. I sent your other
187 letter to Vine street, No. 1335, & you may not have got it. Please answer at once.

I remain yours fraternally, J. HASTINGS.

No. 5. EXHIBIT "R." H. F. Burket, Notary Public.

FINDLAY, O., *July 3d*, 1877.

J. W. Dillman, M. D.

D'R SIR: Yours of the 30th ult. rec'd to-day & I hasten to answer. We are all well, as usual, & I am glad to hear your health is so good, as I have not heard from you for so long. I began to think you had gone off to the wars. I am glad you have not. Your letter contained $201, which I think I can put at interest in a few days at, I think, 10 per cent. The people of this county sustained a loss of 2 of their best physicians this spring. Dr. Wm. M. Detwiler, in getting off the cars when running, rec'd fatal injuries, living only 2 days; was a very noted man; the Odd Fellows, Masons, & Knights of P., the mayor & corporation officers, Sunday-school children, town-school officers, physicians, & ministers & citizens to the supposed number of 1,500 were present. The other—Dr. Ballard—his horse ran off with him & killed him. There was quite an attendance at his funeral, though nothing like the other in numbers. To-

morrow they celebrate & get down to some funny &, I think, boyish things, such as climbing greased poles, running races in sacks, & a tub race; they get the-r wash-tubs into the river & then get into them & paddle across the river with their hands in the water, frequently tipping over, I suppose—great fun for the b–hoys. I have about 3 hours' cutting of clover to do & then shall have 27 acres cut. I expect to cut my wheat this week. Wheat is good, a better crop than usual. The season, having been cold, was favorable for the wheat, but corn is rather short & backward. Grass good; potatoes good; apples almost a total
188 failure. My sister, Mrs. McNeal, is living, but has quit doctoring for her cancer. As to Pleasant, our mutual friend, Douglass, was a candidate for Co. treasurer, but withdrew his name before the caucus. Met Miss Samantha Craig; is lately married. My son has 20 acres of corn, which look quite well. His wife & son are in Richland on a visit. I shall be glad to see you any time that it is convenient for you to call. Your — being at interest, of course, cannot be collected on a few days' notice as though it was in bank, &, the notes falling due at different seasons of the year, you will have to give timely notice before wanting to use it, so I can try & collect. I am quite sure it is easier loaning money than collecting it. Should crops be well saved & sell for good prices & corn & hogs & clover & all do well I think money will be easier another year. Please write often.

With sentiments of respect, I remain yours truly,

J. HASTINGS.

No. 6. EXHIBIT "A." H. F. Burket, Notary Public.

FINDLAY, O., *Oct.* 8, 1878.

J. W. Dillman, M. D.

D'R SIR & BRO.: Your favor of 5th inst. rec'd to-day containing two $100 bank bills, which I shall let at interest this week, it being now engaged. My memorandum runs as follows:

July 4, 1877, I think mailed June 30, '77, containing	$201,	carried out $201.
Jan'y 12th, 1878. Rec'd letter containing	500	
May 4, 1878. " " "	300	
Oct. 8, " " "	200	
	$1,201	

The above are the several sums rec'd from Nov. 16, '76, to this date according to my memorandum book. I hope they will tally correctly with your account. We have been blessed with
189 a very abundant crop in this county & yet money is scarce; has been more enquiry for money since harvest than before. There has been a great quantity sold, but we fail to see where the money goes to. Trade is dull; very little land changing

hands. My family are well, though my son has had a slight turn of fever, but is so as to work some now. He attended the examination last Saturday, & it will be several days before he will know whether he gets a certificate or not. I am under obligations to you for the recom-endation you sent, which was duly rec'd; also please accept thanks for the many n'papers you have been sending me. We have sowed 34 acres of wheat. We have thrashed our wheat; had 560 bushels & 106 bushels oats. Our corn is poor, as the season has been unfavorable. There is about 40 acres on the place that I get a share of—an abundance of apples, considerable many peaches & small fruits. Potatoes almost a total failure. My brother-in-law, Geo. M. Alexander, who lives here beside me, starts to Kansas Thursday, the 10 inst., to see the country, & I suppose, if he likes it, will sell here & move there. He is nicely fixed here, good buildings & nice farm of 80 acres, but his children, 9 in number, are scattering, & he thinks by selling & going to a new country he can help them more, though I think he will be foolish to leave here himself; but if he takes the notion to go he will do it. Should you at any time visit St. Louis please either go or return this way, & also let me know, so I can meet you at the station. There is a R. R. direct from here to Cincinnati; shall be pleased to see you at any time when convenient. Please write soon & often.

I remain yours fraternally, J. HASTINGS.

190 No. 7. EXHIBIT "S." H. F. Burket, Notary Public.

FINDLAY, O., *March* 11, 1879.

J. W. Dillman, M. D.

RESPECTED SIR: Yours of 7 inst. I found at the house this evening when I come in from work. It contained $200, which I can invest at 10 per ct. in a few days. There is a great demand for money here this spring. I think our legislature will this winter reduce the legal rate of interest to 6 per cent., when it may be difficult to get more than 8 per ct. However, there is no trouble in getting 10 now if I had the money. 3 men have been at me for $6,000; besides there is application for smaller sums every few days. My daughter Isadora was married last Dec. She still lives at home, & I expect her husband will do the farming this season, so I can take times more leisurely. I am expecting every day to hear that my son has another heir. I was called to Richland Co. on 17 of Feb'y by telegram. My brother-in-law that lived at the saw-mill below Newville eat a hearty breakfast & started to go to a neighbor's, & not more than 6 or 8 rods from his door he fell dead, & I expect his son will die, if not dead now. A team run into him on the road & knocked him senseless, though he got home by his comrade. Weather very nice & warm; sugar-making in order. Wheat & clover looking nice. Some are going to Kansas. I fear it a bad move for some. Please accept my thanks for the many n'papers rec'd from you. I think a few men here will break up. No farmer can af-ord to pay 10 per cent. interest for a long time. It will ulti-

mately ruin a man, but while it's going so you can have a share of it.

Fraternally yours, J. HASTINGS.

All are well. I have had no cold this winter. Frogs & robins quite musical & wild geese plenty.

191 No. 8. EXHIBIT "U." H. F. Burket, Notary Public.

FINDLAY, O., *May* 14, 1879.

Dr. J. W. Dillman.

D'R SIR: Yours of the 3d inst. come duly to hand on the 6th. I was in town negotiating a loan when I rec'd it. A man here had bo't a farm & the seller moved to Indiana & sold the last note but one & let that man have the mortgage, & then come here to get his money, leaving the mortgage at home, supposing he was going to get the money all the same. When I was to have first mortgage he come to me 3 times that day to make arrangements by which he could get the money to take home. I told him the way was simple, to produce the old mortgage, release it, & put the release upon record, & then he could get the money. The upshot was he had to go back to Indiana & get the mortgage. In your last letter I rec'd $200. It dose seem strange that the demand for money continues so great in the West; could — almost any am't at 10 per cent. I am told a large amount of judgments were taken in the court just closed & men must borrow or let their land sell. Men seem to have gone recklessly in debt, & while so much indebtedness hangs over this community they must borrow at some rate, & people are not slow in taking advantage of others' necessities. Well, Doc., I am not certain, but it looks somewhat just now as though a little business may require me to go to old Lancaster city between now and winter. Should I have to go there I want to so arrange things as to get to see your face, if I can. If I go, shall be there several days. Should I have occasion to go, will inform you fully of my business. I felt sure you were in St. Louis from the wrappers on the papers you sent me & looked many days to see you; went or sent to the P. O. every day to hear from you. The spring has been very backward. The boys expect to plant 36 acres this week. Just
192 now very dry, needing rain very much. Please accept thanks for the many papers you have been pleased to send me. I remain yours truly,

J. HASTINGS.

No. 9. EXHIBIT T. H. F. Burket, Notary Public.

FINDLAY, O., *Sept.* 15, '79.

Dr. J. W. Dillman.

D'R SIR: I rec'd yours of 20th ult., saying you should forward $1,200 on or about 1st inst. As yet I have not heard from it. One day last week 4 persons called for money. One wanted $50, another

$200, another $300, another $550. Thus, you see, there is some demand at 10 per cent. All well.

Yours truly, J. HASTINGS.

No. 10. EXHIBIT "V." H. F. Burket, Notary Public.

FINDLAY, O., *Sept. 6th*, 1879.

Dr. J. W. Dillman.

D'R SIR: Yours was duly rec'd & I have delayed writing until now. We are all well & I hope this will find you well. Some parties here claim to be kins of one James Hammel, dec'd, who at one time is claimed to have owned 160 acres of land situated on the main wagon road from Lancaster to Phila., somewhere, perhaps, from 1 to 5 miles from Lancaster. These folks seem to have an imperfect knowledge about it; say Hammel bought it about 75 years ago; gave a lease on it for 20 years; before lease expired he died & since that know but little. Does your folks live in that direction from Lancaster, or how can I best gain information concerning it from there, or is it of any probable use to make inquiry for it? I have advised for one of them to take the cars & run down & see about it, but they are old & never traveled, & but little business in them. Said farm is said yet to be known as the
193 Hummel farm in that vicinity. Though we have had good wheat crops, yet the larger portion of that is in the hands of persons who borrow but little, so there is considerable enquiry for money by times. Only 1 bank in Findlay now & folks have but little confidence in it.

EXHIBIT "W." H. F. Burket, Notary Public.

OCT. 9, 1879.

D'R SIR: Yours of the 4 inst. at hand, containing $1,200. I shall dispose of it all at once at 10 per cent. interest. There seems to be more demand for money than I supposed there would be after so good crops. Excuse this scribble, as I am in quite a hurry.

Yours truly, J. HASTINGS.

No. 11. EXHIBIT "X." H. F. Burket, Notary Public.

FINDLAY, O., *Oct.* 21, 1879.

J. W. Dillman, M. D.

D'R SIR: I am sorry you have not rec'd my answer to your 2 letters of the 4th inst. I rec'd your postal card & I also on the 9th inst. rec'd your 2 letters of the 4th inst., one containing $1,000 & the other containing $200, &, as I had a letter in my pocket written some time before, I added a few lines with pencil & sent at once on receipt of the money, &, as the envelope was directed to you before leaving home, I let it go with your usual address. Hope you have rec'd it before now & that you will forgive my apparent delay or neglect. Upon receipt of money went to one man who had been

waiting for $700 of it. A part of his land had been sold by sheriff & this was to redeam it, but the parties to whom the money was coming would not then take it, so now sheriff has to advertise & sell again. Well, he had so much trouble to raise the money
194 & then could not use it to redeam his land that he agreed to pay me 10 per cent. & for me to keep the money for him, say, 60 days, so I have it locked up & he pays the interest all the same. A friend of mine died in Richland on 15th ult., & I went there with his will, intending to mail this as I went through town, but forgot this, so I again write you from Bucyrus, Crawford Co., O. I regret exceedingly that you have not rec'd either of my letters since Oct. 1, '79; Nov. 5, '79. To-day I rec'd your letter & paper & letter in paper, & now I hasten to answer your letters & card & papers. All come through right & on time. It is certainly very vexatious & causing a good deal of anxiety. I can't see why my letters have failed to reach you. Please write on receipt of this.

Yours truly, J. HASTINGS.

No. 12. EXHIBIT "B." H. F. Burket, Notary Public.

FINDLAY, O., *Nov. 26th*, 1879.

Dr. J. W. Dillman.

D'R SIR: Your 2 letters mailed Oct. 4th came duly to hand on the 9th of Oct., containing $1,200, &, having a letter written some days previous, upon the receipt I at once before leaving town for home wrote with pencil a few words notifying you of its safe arrival, & on same day loaned $900 of it, & still later $100 more of it, & have finally lent the other $200, & now if you see fit to send $200 more I can lend it to Mr. G. M. Alexander, my brother-in-law, here for one year. He must borrow it from somebody, & wanted me to write to you & learn whether you could accom-odate him. Money is pretty close just now. I don't think 10 per cent. interest will be maintained much longer; but there is no trouble in getting 8 per cent, which is our present legal rate, when mentioned in note. On the 1st of Feb. a new bank opens in Findlay, which I suppose will flourish for a season & then col-apse like banks
195 generally. I feal much chagrined to think my letters failed to reach you, as I mailed 3 to you besides this one since I rec'd the money informing you of the fact. It would oblige Mr. Alexander if you could let me know at once whether you can accom-odate him or not. He must have money by the 25 of Dec'r from some source. We are all well & hope this will find you well. Please let me hear from you when convenient. We are ½ done husking corn. Have it rather cool for some days.

Fraternally yours, J. HASTINGS.

No. 13. EXHIBIT "C." H. F. Burket, Notary Public.

FINDLAY, O., *Dec'r* 25, 1879.

Dr. J. W. Dillman, U. S. N.

D'R SIR: Yours of 22 has come to hand, containing $100, which

I expect to use to-morrow. Since a week ago last Friday I have been confined to bed & rocking chair, & am now with little apparent improvement, with rheumatism. A young M. D. is attending me, & says can help me soon. It — rather hard for me just now, when I ought to be hauling saw-logs for my new house. You, of course, understand I — not much on Grant booms or, in fack, any other at this time. I think the common good of the country requires that things be taken more moderately &, in proportion as other things, act slower & more cautiously, not be in too great a hurry.

Fraternally yours, J. HASTINGS.

No. 14. EXHIBIT "D." H. F. Burket, Notary Public.

FINDLAY, OHIO, *Mar. 30th*, 1881.

MY ESTEEMED FRIEND: Yours of the 22d inst. come duly
196 to hand & found all about as well as usual. Isa took cold & it settled in one of her breasts & bealed & was very sore for awhile, but is now about well again. I am slowly but steadily recovering from my rheumatism; I can husk corn in the barn, where it is comfortable working. Lizzie quite well. John & wife & 3 children are well; 1 boy & 2 girls. The winter has been cold & dry; our deepest snow probably about 8 inches, enough to cover & protect the wheat in the ground. Grain is generally looking very well, although not as heavy growth as last year, yet if nothing happens I think we may have good crops. As regards this Hummell matter, I do not know as I can add anything new. In Ohio all leases running over 3 years have to be acknowle lged & recorded same as deeds. Don't go to paying out money on this matter, for the heirs here are quite penurious & will not advance anything unless they are sure of winning. One of them offered me 10 cents to pay postage, but I felt constrained to decline their liberality. Please accept my thanks for your medical advice for the present until you are better paid & also for your kindness in sending so many papers. Just now there is considerable excitement about the R. R. here at Findlay; there is 3 now trying to reach Findlay; one of them runs 1 mile along my north line; another runs through the farm. How they will get along I cannot at this time say. They are asking about $200,000 from this Co. The road from N. Y. to Chicago & Omaha is surveyed through our farm. One man whose farm adjoins town offers the right of way & 12 acres R. R. ground. He is now & has been selling his land for $1,000 per acre; he has 200 acres. The R. R. is to be double track—a freight road. I have not bought that land. There was a man wanted to borrow $1,000;
he has gone back on me; another wanted $1,000, & I, after
197 going & examining the records, have gone back on him. Money is quite plenty here this spring & is dull at 8 per cent. Our banks will pay 6 per cent. on deposites for 1 year. Although they are very nice & sweet, I don't like the attempt to bulldoze the Government made by certain banks, & I am glad the Gov'rn't has backbone enough to hold them level. I have a friend living in Nebraska who lately informs me by letter that his wife is an heir to

an estate which is now pending in the orphans' court in Phila.; the estate is known as the Boggs estate. If upon your return to Philad. you should have time to step into that court & make a little inquiry as to whether there is such an estate in fact pending in that court or not. &, if so, what are its probabilities of ever being adjusted. Said estate, he tells me, is estimated at about $1,000,000. The parties—the name of the parties West is Evans. I do not know as their name appear- in the case, or I know very little about it. Since I began writing this I hear there is a surveying party out surveying another railroad through Findlay & cutting off a corner of our land; well enough. Snowed like fury yesterday. You can take some Sunday & try & make this out, if you can. Knowing that you are an expert at decyphering poor writing, I leave it with you.

Fraternally yours, J. HASTINGS.

No. 15. EXHIBIT "E." H. F. Burket, Notary Public.

FINDLAY, *May* 17, 1881.

J. W. Dillman, M. D.

D'R SIR: Your kind letter was rec'd some time since; ought to have answered sooner; have been busy & a little dilatory. Money is rather more plenty than it has been; the demand is rather light at 8 per cent. I have loaned nearly all this spring at 8 per
198 cent.; one lot at 6 per cent. on shorter time than I have been doing, thinking some better chance might turn up by the time it was due, preferring to take 6 per cent. rather than to let it lay idle altogether. Do not know that I could lend your money at this time for more than 6 per cent. that you spoke of; should an opportunity offer & you should have it on hand I shall let you know. I am well enough satisfied with the result of your enquiry after the Hummel estate; there is no snap in them. In the case of the Jane Boggs estate there in Philad. I think she died in 1876; that is what they write me from Nebraska. I should like to have these folks get something if it is honestly coming to them. Well, last week I went into an adjoining Co. as witness in a lawsuit; the man who subpœn*a*ed me won the case, getting a judgment of $1,200. I am improving *w*right along. Please accept my thanks for medical advice. Bicci. Atwood is movin- — N. Hampshire. We have a cold -ackward spring; some peach, c*r*erry, & apple blossoms. We expect to finish planting to-day. Wheat is looking quite well. All well as usual. There has been several sudden deaths; drop-ing off a chair dead. Please write often as convenient.

I remain, fraternally yours, J. HASTINGS.

No. 16. EXHIBIT "F." H. F. Burket, Notary Public.

FINDLAY, O., *May* 30, 1881.

J. W. Dillman, M. D.

D'R SIR & BROTHER: Yours of the 20 inst. came duly to hand, containing 3 $100 bills. Was pleased to hear you were enjoying

good health. We are all well as common. I shall invest your money as soon as I find a suitable opportunity. A 3 survey for
R. R. will, I am told, soon be made, which, they say, will
199 pass along near our house, though I think it uncertain where
it may be located. I think, in any event, it will go through our farm; they have proposed to make a station where it crosses the county road if it passes near my house. Well, enough of this. I shall write to my Nebraska man & learn all I can relative to Bogg estate & let you know the result. Further about R. R., they say they will have the cars run here by 1st of Oct. The month of May has been mostly very hot & fearful dry. Wheat, clover, timothy, oats, & corn are, as a general thing, short. We have considerable east winds, & I think we shall have a light crop of fruit. Wheat, $1.05; hogs scarce & rather high. They are doing a good deal of building this season in Findlay; the largest building yet built in Findlay is going up now; this is to be used for wholesale dry goods—several good buildings for a country town. Accept my thanks for your kindness in sending so many N. papers.

I remain, fraternally yours, J. HASTINGS.

No. 17. EXHIBIT "G." H. F. Burket, Notary Public.

FINDLAY, O., *Nov.* 4, 1882.

J. W. Dillman, M. D.

DEAR SIR: Your kind letter come duly to hand; found us all well as usual. Glad to hear you were well & hope you may long continue to enjoy good health. You read my little granddaughter's face as correctly as though you had always been personall- acquainted with her. She is rather a sprightly child. I am glad you did not get into the yellow-fever country this season; hope you may never be called into it again. Money does not seem — be very
abundant, yet perhaps nearly enough for healthy business.
200 What few land sales we have are made at fair prices. The
new college will be erected the coming season. They have agreed on a plan & have the money all raised to build with, & the job of stone-work is to be let this fall—171 feet front, 3 stories high. There is a possibility that I may go to N. Y. city between now and April, and also to Washington city. If I do shall try to find you if circumstances allow it, & I will try hard to make them do so. If I do go shall write you when I learn the facts; may be detained in cities several days. I am assured that I positively will go there between now & April, no preventing Providence. Will tell you the rest when I see you. Grain in ground looks very well. Corn is good. Mr. George Alexander has moved to Kansas & bo't a big farm. Before this reaches you the election will — over & the Dems. will, I think, carry most of the States. Please write often.

Fraternally yours, J. HASTINGS.

No. 18. EXHIBIT "H." H. F. Burket, Notary Public.

FINDLAY, O., *April* 27, 1883.

Dr. J. W. Dillman.

D'R SIR: I take this occasion to say we are enjoying our usual health & I hope this will find you well at last. I write you to say that, no preventing Providence, I expect to be in Washington city on next Tuesday afternoon, and as soon as can attend to business will proce-de to Phila., where I may remain one day, & then pass on to N. Y. city, where expect to remain several days. While in Philad. I shall try to find you & will have a chat.

Fraternally yours, J. HASTINGS.

201 No. 19. EXHIBIT "I." H. F. Burket, Notary Public.

The Continental, J. E. Kingsley & Co., Phila.

DEC. 28, 1885.

J. W. Dillman, M. D.

MY KIND DEAR SIR: Your kind letter was rec'd several days ago, & I now hasten to reply. As regards amount rec'd & time of receiving as follows, as shown by my book: March 10, 1875, $1,800; April 2, 1875, $200; June 1, 1875, $199; Dec'r 1875, $400; July 30, 1876, $500; Nov. 16, 1876, $500; July 4, 1877, $201; Jan'y 12, 1878, $500; May 4, 1878, $300; Oct. 8, 1878, $200; Dec'r 5, 1878, $200; Feb'y 11, 1878, $200; May 6, 1879, $200; July 17, 1879, $200; Oct. 9, 1879, $1,200; Dec. 25, 1879, $100; May 21, 1881, $300—this, I believe, constitutes the several sums rec'd. I have just returned from Pittsburgh, & find many letters on the table that require immediate attention. We had a very pleasant meeting, & I think things more favorable just now than I have seen them look yet. The great trouble seems to be, so seems, to raise the necessary funds to go on with. At this meeting one man stepped forward, took stock to the amount of $2,500, & put the cash in bank to be drawn as they need, which is expected to take it through all the courts they need to, & you may read of the case being begun most any day in the superior court of N. Y. As far as the interest is concerned, it's a big undertaking to wade through it, & when more at leisure & my head clear I will tackle it. I shall be pleased to hear from you often.

No. 20. EXHIBIT "J." H. F. Burket, Notary Public.

The Continental, J. E. Kingsley & Co., Phila.

FINDLAY, O., *Jan'y* 5, 1886.

J. W. Dillman, M. D.

202 KIND SIR: In the goodness of your heart — offered to assist me in counting some interest. I herewith send the dates, length of time they were to run, & amounts & the credits thereon

& the amounts & dates—I hope you will readily understand them—as follows:

	Credits.
1. Aug. 2, '84, 2 years, $800.	Dec. 18, '85, $200. Dec. 4, '84, $31.25.
2. Dec. 8, '83, 1 " $140.	
3. Nov. 14, '84, 2 " $1,091.58.	
4. June 29, '83, 4 months, $200.	June 7, '80, $20; Sept. 23, '85, $3.
5. June 30, '83, 1 year, $50.	
6. Sept. 30, '82, 2 years, $100.	
7. July 11, '84, 1 year, $300.	July 11, '85, $24.
8. April 9, '78, 1 " $204.	March 19, '79, $130.
9. Feb. 19, '83, 6 months, $200.	June 16, '85, $40.
10. June 14, '82, one year, $500.	Jan'y 14, '83, $40; June 14, '84, $40.
11. June 4, '81, one year, $50.	Dec. 11, '84, $10; Nov. 26, '80, $32.
12. Jan'y 8, '78, 1 " $200.	Jan'y 8, '82, $32; Nov. 15, '84, $7.
13. June 15, '82, 6 months, $100.	May 6, '82, $52; May 7, '83, $52.
14. May 7, '81, one year, $650.	Nov. 15, '84, r'c'd interest on four notes.
15. Nov. 15, '84, one year, $327.60.	Nov. 15, '85, rec'd $52. Nov. 15, '84, $55. Nov. 15, '85, $26.20.

My Dear Sir: I send you a statement of claims & credits upon the whole, bearing 8 per cent. annual interest. I will shortly make out & send you a list of other notes. You will observe there is some small notes, & of course small payments thereon, that is brought about by some interest being paid on small notes & which I might have to hold some time in order to get a respectable amount gathered into a bunch to loan.

Fraternally yours, J. HASTINGS.

Phila., Feb. 2.—Sent back above notes with interest worked out in full & the following note appended: "For convenience of reference have No. notes up to 15, nearly all being irregular or in
203 arrears of payment, & have calculated comp. int., the difference being considerable even in these small notes. For example, No. 72 has been even more prompt than most of them, & yet were he to pay Jan. 8, '86, his int. yearly, 32+25 (deficiency of '84), with the prin., 200=257, there would be a loss of 14⅓ dols. on the small sum of 200, our loss of his gain. Seeing that he gains 14 by tardiness, he has nothing short of honor (?) to induce him to be prompt. This would be rewarding dishonesty or failure to comply with contract. If, however, he pays interest on the int. retained he may as well have it as any one else, however my reason for calculating compound interest, which is just to all, I think, in accordance with your way of doing business.

J. W. D.

No. 22. EXHIBIT "K." H. F. Burket, Notary Public.

As I have filed your letters, &c., I give date & am't from my memorandum & letters:

M'ch 10, '75	$1,800
Apr. 2, '75	200
June 1, "	200
Dec. 17, "	400
July 10, "	199
July 2, '76	500
" 4, '75	201
Nov. 7, '76	500
Jan'y 12, '78	500
May 4, '78	300
Oct. 8, '78	200
Dec. 5, '78	200
	$5,200

204 *Letters of J. W. Dillman to J. Hastings.*

EXHIBIT 1. H. F. Burket, Notary Public.

U. S. S. CANONICUS, NEW ORLEANS, LA., *March 5th*, 18[illegible]

Mr. Hastings.

MY DEAR FRIEND: Yours of the 1st ult. eventually found its to my present place of abode; from Pensacola was sent to Washington, Navy Dep't; then here. A previous one alluded to nev reached me; am sorry did not receive your former letter at all & last one month after mailing; will forward herewith *herewith* my address on card, by which letters will be sure to reach me, no matter where I may be at the time; if not here, will be forwarded from here or returned to Navy Dep't, where they always have my address & will forward it. With reference to the money, you are very kind & obliging, indeed, & trust you will allow yourself to be fully compensated for trouble. I have now about eighteen hundred dollars due me on the paymaster's books, which will draw & send you to invest or loan in accordance with your better judgement; should not wish any one to pay a higher interest than its worth in that locality. At same time if it is worth 10 p'r ct., think — should have it. 8 p'r cent. can only be collected by law. This could easily be overcome by doing as banks do, retain interest in advance or

205 give $9,000 for $10,00- on note, if, as I said, it is worth so much or can be securely invested at such or with reasonable security, such as the farmers near your place alluded to. I do not think much of savings banks generally, especially where from 12 to 15 per ct. is offered on stock. Scarcely any kind of business that realizes 15 with any permanency. But, fully conscious of the fact that you are thoroughly schooled in this business (& which I am not), I will enclose herewith a draft, payable to your order, for

$1,800.00, which you will please loan for me in accordance with your better judgement, with which I shall be satisfied &, of course, not think you personally responsible for it in any manner. In my last think I informed you did not like Pensacola very well, & I should depart as early as could honorably, in which well succeeded on abatement of yellow fever; have been attached to this (aforenamed) vessel & here all winter; have had a very pleasant time indeed; in enjoyment of perfect health; a very delightful climate during winter season, with quite sufficient political excitement to vary the otherwise inevitable monotony. I was very much grieved to learn of the illness of Mrs. Hastings, for whom I entertain a very high appreciation because of her untiring & many kindnesses manifested towards me; hope she has greatly improved since then & her days may yet be many & happy. The ten days past you have doubtless moved to Findlay, leaving J. F. H. & family alone in valley;
206 rejoiced to learn that he had already a successor—a fine boy. I wish him success & much happiness in his new career as a family man. Is it possible Dr. Baker will or can leave Lucas? Think not far distant. Why does he not move to Mansfield? Must conclude with many wishes for the well being of your entire family. Write soon and oblige,

Yours fraternally, J. W. DILLMAN.

EXHIBIT 2. H. F. Burket, Notary Public.

NEW ORLEANS, LA., *April 1st*, 1875.

MY DEAR SIR: Yours of the 19th ult. now before me, with information that my last & contents were rec'd all right and the sad intelligence of the decease of Mrs. Hastings. Although scarcely unexpected, yet none the less sorrowful. Daily are we reminded of what must eventually be our lot—day by day passing away. How is Mrs. R. Tucker and Mrs. Adam Mowry? Please inform. On settling my accounts with paymaster for last quarter I found that I had two hundred dollars to spare, which shall herewith enclose for you to invest like that previously sent, trusting I may not be imposing too much upon good nature by sending small amounts. Since letters are seldom lost when properly directed, shall enclose two $100.00 bills; think there is but little risk in so doing. This city is still dull—dull, with poor prospects for improvement, notwithstanding the compromise. The tendency of everything is downward—decay and desolation. The senatorial party for
207 Mexico are here, but some anxiety is manifested by them in regard to the rumors of yellow fever & cholera along the Mexican coast. They will doubtless go, however, in a day or two. The "Despatch," from Washington navy yard, has arrived, & is to take the party to Vera Cruz, Mex., all of which papers doubtless inform you of. I am having a very pleasant time, indeed; could not reasonably wish any improvement. Some quieter since flagship & others left; only this Canonicus & Kansas are here, except little Despatch, temporarily only. Write soon and oblige,

Yours most respectfully, J. W. DILLMAN.

Address as before.

18—201

EXHIBIT 3. H. F. Burket, Notary Public.

NEW ORLEANS, LA., *May* 31*st*. 1875.

MY WORTHY FRIEND, MR. HASTINGS: Your favor of the 17th ult. was duly rec'v'd, informing me of the receipt of $200, & all at interest. $200 more having since accumulated to my favor & no use for here, will forward to you, with the understanding that you will invest it how, when, & where your better judgement may prompt you as well as convenience point. Drafts can only be obtained here on New York, & now at a heavy premium, &, it being rather a loose way to send money as such by letter, consequently will enclose a draft on the U. S. Treasury, which all banks, as a rule, are perfectly willing to cash at par. Please inform whether your banker does so willingly. I will endorse it, payable to your order, & trust you will have no difficulty or inconvenience with it. By your last I learn that you are
208 doing a very different business in the farming line than while in Richland Co. Doubtless two causes for this difference—one, is land better adapted or more remunerative, less labor and larger yield; & a second, less business independent of farming or for other persons. With so much ground under cultivation, should the season prove a favorable one for good crop or yield I should suppose you would realize more than in Richland with all outside business, with less annoyance. Happy to hear of your grandson's doing well; fair prospect for continuation of dynasty. I trust may have the pleasure of seeing him some day. The poor girl Isadore—182 lbs.—I think should have more work assigned her, with spare diet—say, 20 cows to her exclusive care & milk & toast for breakfast, dinner, & supper. Lizzie & Isa, keeping house for you, doubtless have work enough for healthy exercise. But what has become of Mrs. Atwood? Has she remained in P. valley or with you at Findlay? Hope she is well and happy wherever she may be. My kindest regards to her. I am having a very pleasant time, indeed, notwithstanding the hot weather we are having. During daytime, when the sun is very hot, its direct rays are almost unbearable. I occupy time reading in coolest place can find. Evenings here are very pleasant. Business in this unfortunate city is continually on the decline. Neither compromise nor aught else has the least influence in staying the downward tendency of all business & prosperity of this doomed though once happy city. A delightful climate & many other advantages; but I think her happy days are forever gone.

Fraternally yours, J. W. DILLMAN.

209 EXHIBIT 4. H. F. Burket, Notary Public.

NEW ORLEANS, LA., *July 8th*, 1875.

MY DEAR SIR: Yours of 28th ult. is rec'd; was surprised you should have so much difficulty with that Treas'y draft. I have sent them to Philad., Baltimore, & one to Chicago, and did not learn that

any until yours gave any difficulty to collect. Parties to whom — had made them payable simply deposited them in bank like any other check, getting full value in cash for them because of money being in favor of the North at this time. In other words, if I were to purchase a draft here (can only on New York here) must pay considerable premium or more than its face value. If bought in the North on this place (now), could be bought for less than face value or at a discount, hence that bond is worth more than its face value in New York; but that, of course, is expected to go for bank commission. But your banker, had he been familiar with such paper, would doubtless have cashed it for you without any hesitancy and sent it with & like his other drafts to New York, when it would have found its way here, like any other draft, in the usual and ordinary way of exchange. Had I not done the same before elsewhere without learning of any difficulty or thought might have least difficulty should have collected & sent money instead. The New York banker certainly knew all about it & should have accepted it at once because of his having all the premium in his favor. With present rate of exchange his only object can have been to profit by retention; but whatever you realize for it credit me with. Of course, I have no fault to find
210 with you, & am only sorry that you should have had so much bother with it; much pleased to learn that you and the girls like your new home so much; that your crop prospects are very favorable; with so many acres under cultivation in Richland Co. would be a laborious task. I admire the girls' industry & thrift (butter-making). They will soon have a large bank acc't from this source alone. Wish you had the wet & warm weather in Ohio we here have, & your many acres under cultivation would yield very largely. During the last 12 days not one day but more or less rain, and I need not tell you that here the temperature is high enough at all times for luxuriant vegetable growth. It looks like a very great evil that many thousands of the most fertile acres this country can boast of should remain uncultivated or idle—perfectly level, light, and very easily worked land—in latitude or climate not exceeded by the paradise of our first parents. Large plantations along this river still remain uncultivated & apparently entirely deserted. Why this is I need not explain to you at this late day, but it is sad to behold the universal decline & decay all around in this once happy city and out around it. Only two new houses built in this city this summer, & these on the sites where old buildings fell or tumbled down in prominent part of the city. New Orleans has seen her best days. Very healthy here at present; weather warm, but equable, and hence not oppressive. No yellow fever here; have enjoyed perfect health since here. My regards in return to all.

Yours fraternally, J. W. DILLMAN.

211 EXHIBIT 5. H. F. Burket, Notary Public.

NEW ORLEANS, LA., *Dec.* 17*th*, 1875.

BRO. HASTINGS & DEAR FRIEND: Your favor of the 14th inst. this

day gratefully received; imparts to me the joyful information that you and family are well. The only information given from the Valley Pleasant is sad indeed. I was aware that the money sent you was placed in bank, and satisfied because your better judgement convinced you it was the best disposition to be made thereof at the time, although, like yourself, my confidence in banks generally is not over great or strong, and consequently am pleased to learn of opportunities for better investments have presented themselves. No better security than real estate could be obtained, and since the terms proposed are entirely & perfectly satisfactory to me I hasten to thus inform you. Will enclose herewith four hundred dollars, loose money on hand, for your disposal. Do not infer from the above that I object to leaving a balance or any part that cannot at the time be loaned on real estate security in Findlay bank. I leave this for your own better judgement (but, of course, at my own risk); you are there, can see, and necessarily better prepared to judge. Since you can thus readily and doubtless securely deposit in bank, will send from time to time such small sums as may have on hand & not otherwise wanted for deposit there and until has accumulated and other opportunity presented itself. Will enclose here-
212 with four one-hundred-dollar bills. I think there is but little risk in so doing, with letter properly directed; have often thus sent money and never lost a dollar. My health is perfect; am in excellent spirits, having as fine a time as could reasonably desire. We are having very fine weather here—warm and delightful. Only politics can disturb the usual quiet tending on the part of all. My regards to all. Hoping to hear from you soon as convenient again,

Yours fraternally, J. W. DILLMAN.

EXHIBIT 6. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *Dec. 22nd*, '76.

MY MUCH ESTEEMED FRIEND & BRO. HASTINGS: Both your letters, Nov. 27th & Dec. —, were this day rec'd. The former doubtless arrived at 1335 Vine St. while I was in New York, & for some cause (cannot ascertain) was not received & forwarded, as several others were; went back to P. O. and found it among the list of advertised letters. While I regret exceedingly giving you double bother writing, am very thankful to you for being so kind and prompt in replying thus early, relieving my mind of some anxiety entertained relative to the five hundred. It is not a very proper way of sending money, to say the least; but I have entertained the idea that it is quite as safe as registering, because of no indication about it or letter that contents are of any value; hence not tempting those through whose hands must pass; am very thankful for the
213 detailed statement of amounts as received; is certainly correct. I never entertained any doubt regarding the investments, knowing that whatever you do is done after mature forethought. Relative to my living in Southern clime & retaining health, I assure you I know how & do take good care of myself; sickness generally, unless inherited, is the result of carelessness, re-

gardless of climate, although warmer climate is less healthful than cold, as a rule; was not sick a day while South, not even debilitated or worn down by heat or malaria; yet should not like it as a permanent home; had thought of visiting you on the way home from the South, but other parties along desired going north further west & over the Michigan Southern road east; could not; again intended going to St. Louis some time during the winter & on the way stop at your place, but have postponed going to St. Louis until spring and return if pleasant weather, when traveling will not be a punishment as now, wishing to accustom myself gradually to cold; are having delightfully cold and bracing weather; sleighing last five days; ground well covered with ice, but little snow; last two weeks quite cold; not much political excitement in this city; New York more, but N. Orleans, as letters and papers received inform me, very excited; friends there declare will not endure it much longer. Is it not terrible to be controlled as Louisiana has been? Wishing all a happy Christmas & merry New Year,

I remain yours, etc., J. W. DILLMAN.

214 EXHIBIT 7. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *May 2nd*, 1878.

Mr. J. Hastings.

DEAR SIR: Herewith enclosed please find three one-hundred-dollar bills to be put on interest as previous. I noticed in papers some time since some difficulty in the Findley savings bank, which, however, is not likely to have influenced you, since you never had much confidence in such institutions. They have had a hard time lately. Am in perfect health and happiness. Trusting & sincerely hoping you & all your family are the same & busy tilling the soil this beautiful spring weather,

I remain very truly, J. W. DILLMAN.

(Excuse haste.)

Address No. 334 S. 13th St., Philadelphia, Pa.

EXHIBIT 8. H. F. Burket, Notary Public.

LELAND'S OCEAN HOTEL, LONG BRANCH, *Aug. 26th*, 1878.

Jas. Hastings, Esq.

DEAR FRIEND: Have had the misfortune of having had a note book stolen containing a rough acc't of money sent you, and thinking possibly parties might make an effort to realize therefrom, even at the risk of detection, thought it better to inform you. Although having no fear that you could be thus taken advantage of, think it well to be on the safe side. They might try to imitate my signature. Should any one attempt collection inform me at once by telegraph; should like to find such party. Am enjoying excellent health at this cool place. Never hot here like in the interior, because of the moderating influence of water and the constant breeze
215 either from ocean or land. The former always delightfully cool and refreshing. The air in a large city like Philad. is

not only very oppressive, but exceedingly unhealthy, during the hot season, & of course all who well can take their departure. This season the country is far preferable to city life. I trust you & family are all well & happy. Sufficient work always to be busy; no time for discontent. My regards to all. With the hope of hearing from you soon,

Remain very truly, J. W. DILLMAN.

EXHIBIT 9. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *March 7th*, '79.

Mr. J. Hastings.

MY MUCH ESTEEMED FRIEND: Having two hundred more than any use for; concluded to enclose it to you; possibly you may be as fortunate in meeting some one in want thereof as last. Your last (of Dec. 12th, '78) was duly —. Was surprised to learn that mild weather favored you so late in the season, which does not harmonize with my previous opinion—that winters with you were much more *than* severe than here. The past has been an ordinary winter here—neither very cold nor much snow; twice for a few days sleighing, with insufficient snow; weather very changeable—snow, rain, thawing, mud, etc., all winter. Mild and beautiful now. Because of sudden changes, had much pneumonia, & few escaped severe colds and bronchitis. My health has been perfect save
216 one time a severe cold, which soon overcame. Business generally cannot be said to be very good, yet fair, with increasing confidence. Everything is cheap; more so than before the war, dry goods especially; calico from three cents per yd. up. Nice dress goods for six & eight cts.; gentlemen's goods also low; all can dress well for little money. Very fair appearing white sugar for seven and eight cts. p'r pound. I presume maple-sugar making is almost abandoned; cannot be profitable. Your last informs me of the sad termination of a misguided bank president's career; what a sad spectacle to contemplate, yet he was only one of the many during the few past years. Men run wild in speculations; oversanguine of success, even while ruin stares them in the face. Money is plentiful here; considerable gold in circulation & silver a drug in the market. At the U. S. subtreas'y this morning handed in three dollars in silver with notes for two one-hundred-dollar notes. The treasurer very promptly informed me, "We do not redeem this stuff (silver) here." I, with equal promptness, replied, "The Government had better sell out before it ceases to redeem its own money." He took the silver, but his face wore less of a smile than many seen in the street. Now that spring & fine weather is setting in, those of your neighbors who decided upon Kansas as their future place of abode are doubtless preparing to depart. A man with a large family like Mr. Alexander can doubtless do better for his
217 children, but it may take the remainder of his time to learn to like the new country.

Very sincerely, etc., J. W. DILLMAN.

Kind remembrance to all; write when convenient.

EXHIBIT 10. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *May 3d*, '79.

Mr. Hastings.

MY DEAR FRIEND: I have just returned from a hasty trip to St. Louis; was called there on rather unexpected business; very sorry that time would not permit me either going or returning by way of Findlay and thus avail myself of the opportunity to pay you a visit; was necessitated going out by way of Washington, having necessary business to attend to there, and was detained longer at St. Louis than anticipated, thus compelling me, in order to return home within the limited time allowed, to go by the nearest and most direct route without stopping anywhere; am very sorry I could not profit by the opportunity to see you all once more, as also your newly made home as compared with Richland, but I have fair prospects of having more spare time at my disposal in the near future, when I shall be only too glad to avail myself of your kind invitation to visit you. Yours of 11th ult. contained both pleasant and sad news. The sudden death of your brother-in-law and his son's very singular accident reminds us most forcibly of the uncertainty of life. Truly in the midst of life we are in the midst of death. I do not like St. Louis so well as did when there before. I have lived too long in the far more clean city of
218 Philadelphia ever to like so dirty a place. I must agree with you in thinking it a wrong move, leaving pleasant homes & moving to Kansas. I think farming does not pay better further west, but worse, with the loss of many friends and comforts. Glad to learn and wish to congratulate John, as also Isadore, on the provision & forethought exercised for the future, so that with due assistance thus acquired their declining years, be they few or many, may be rendered both easy & happy. Lizzie, doubtless, still prefers remaining with her father. To have her husband farm for you must be a very great relief. You have certainly worked hard quite long enough and should be entirely relieved thereof. Strange that so strong a demand for money at so high a rate of interest should continue with your neighboring farmers. Is it possible they can make so much by farming alone? It may seem rather selfish, but certainly so long as they are willing to pay a rate of interest netting me ten p'r ct. annually I shall not hesitate in furnishing them with all I may have to spare, the same as doubtless many others are doing.

With kindest regards to all, I remain very truly,

J. W. DILLMAN.

Box 2838, P. O., Philadelphia.

EXHIBIT 11. H. F. Burket, Notary Public.

ATLANTIC CITY, N. J., *Sept. 30th*, 1879.

DEAR FRIEND: I just rec'd yours of the 15th inst. Was unex-

pectedly detained from returning to Philad. as anticipated
219 when last wrote you. Sorry did not send you the check then, but expected returning and having it cashed, but perhaps it is as well this way, there being less risk in sending check than cash or money. Am sorry if should have disappointed any one who may have wanted for it. Any bank with which have dealings would cash it without charging in Philad., but in Findlay they will be most likely to charge. Should you have any trouble with it send it back to me. Will be in Philad. in a day or two. Will send you the money. Am well & happy. Pardon haste. Address on the other side.

Truly yours, J. W. DILLMAN.

EXHIBIT 12. (Missing.)

220 EXHIBIT 13. H. F. Burket, Notary Public.

PHILADELPHIA, *Oct. 4th*, '7–.

DEAR SIR: Upon second thought concluded it would require less time & certainly less trouble to you if would detain few days & get checks cashed here & send you the money with, perhaps, a little more risk; hence wrote you postal card instead of the check & this letter as written on opposite side, all of which you will understand after reading both. Sorry did not long since or when first wrote you about it forward to you the check & allow you to have it collected instead of thus retaining because may have disappointed some one waiting for money & inconvenienced thereby. I dislike uncertainty of this kind, but is no longer remediable. I shall enclose herewith one thousand-dollar note & look for reply as early as convenient to know of its safe arrival. Shall be in Phild. for some time now again. Please direct reply as below given. Will at this time get it more promptly.

Very truly, etc., J. W. DILLMAN,
Jefferson Medical College, Philadelphia, Pa.

EXHIBIT 14. H. F. Burket, Notary Public.

PHILAD., PENN'A, *Oct. 4th*, 1879.

DEAR SIR: Enclosed please find two one-hundred-dollar notes, making the amount promised to send; you will understand. Please reply as soon as convenient, that may know its receipt. Direct for promptness at present as below.

Very truly, etc., J. W. DILLMAN,
Jeff. Med. College, Philadelphia, Pa.

221 EXHIBIT 15. H. F. Burket, Notary Public.

PHILADELPHIA, *Oct.* 12, '79.

DEAR SIR: Yours of 21st ult., mailed 8th inst., doubtless the last one, received, & anxiety relieved. None of the former yet turned up; doubtless will by & by.

Very truly, J. W. DILLMAN.

222 EXHIBIT 16. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *Dec. 3rd*, '79.

DEAR SIR: Yours of 26th ult. was duly rec'd & hasten to reply. The failure of previous letters reaching me (have not yet turned up) gave me considerable anxiety at the time, largely because of my carelessness in sending so money in unsecured letters. Had grown bold by repeated success, having sent them so often & not even delay previously. Being all right now, class it with those occasional unavoidable occurrences encountered. Concerning Mr. Alexander, am not quite sure now whether can send him $200 by the 25th inst. Gave a man money for present convenience & he appears slow in returning it. Have $100 on hand which could send him any time & very likely $200 by the 25th inst. Will inform definitely in a week's time, but should not like to disappoint him by delay so as to cause inconvenience to him. Business of all kinds is looming up very decidedly of late through the East & may be expected to continue unless our politicians at Washington see fit to disturb matters & upset the equilibrium. We are having warm weather again after a cold spell; windows & doors open; too warm for comfort this season. Warm & damp would be good for work at corn. Have had little sprinkling snow, but melted on reaching the ground, & few cold days.

Fraternally yours, J. W. DILLMAN.

EXHIBIT 17. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *Dec.* 15, '79.

DEAR FRIEND: Sorry to say cannot send Mr. Alexander
223 the two hundred by the 25th inst. Will send one hundred Monday next (22d), & if knew it would benefit him could make it $125 or so, but not the full two hundred. Could give him the other hundred about 5th of January, 1880. All Grantism here now. You can form no idea of the enthusiasm. All adjoining county coming.

Yours, etc., DILLMAN.

EXHIBIT 18. H. F. Burket, Notary Public.

PHILADELPHIA, *Dec. 22nd*, '79.

DEAR SIR: Herewith enclosed please find one hundred dollars. Am sorry I could not make it two hundred at this time to suit Mr. Alexander. We are having much, much Grantism. Will send papers to give you faint idea. Weather moderate; little snow or sleet; terrible streets from its melting. Am well & happy.

Yours, et-., J. W. DILLMAN,
Jefferson Medical College, Philadelphia, Pa.

EXHIBIT 19. H. F. Burket, Notary Public.

PHILADELPHIA, *Mar. 5th*, '80.

Mr. HASTINGS: Your lost letters, strange as it may seem, are turning up one by one; written from different places. Yesterday rec'd one from Western house, Bucyrus, Ohio. Presume all are now rec'd. Am sorry you should have been put to so much trouble in writing, but, the am't being larger than usual sent & not hearing, felt anxious concerning it. Was sorry to learn by letter rec'd some time since that you had been confined by an attack of rheumatism, muscular, I presume, which, although painful, is seldom followed by evil consequences, like acute articular rheumatism frequently is, only a tendency to return. Hope you have long since re-
224 covered your former good health and progressing favorably this fine spring weather with preparation for building new house. I will, when completed, pay you a visit & inspect it. Hope ere long to have more spare time, when purpose travelling around some & few friends will afford me greater pleasure to visit than former Pleasant Valley folks. Had a good laugh over your assertion, "Do not take much stock in Grant booms." Ohio is not a third-term State. Relative to the Hammel property, in Lancaster county, am sorry can give no direct information now, but when can get off this summer intend spending a week or two with my preceptor in Lancaster, when will with pleasure obtain all possible information concerning it. My folks do not live in that vicinity or direction from Lancaster, but I formerly had many acquaintances through there & if the name is correctly given think can trace it up. I know some by name of Hammond, but never met the name Hammel. There are two wagon roads known as Lancaster & Philadelphia roads—one known as the "old road," an ordinary but well kept and more than twice the ordinary width of country roads, and the other known as the Philad. turnpike or macadamized road, a toll road; the former not, but both, of course, running in the same direction, and if within six miles of Lancaster on either of these roads think can learn something thereof. Shall, with much pleasure, make the effort in a quiet sort of way & inform you of the result. Meanwhile write me of any additional information you can get from the interested parties if, in your opinion, such might aid in tracing it up. May possibly gain some information among re-
corded deeds in Lancaster concerning it. If you could learn
225 of them the name of person to whom it was leased for twenty years, might aid greatly in searching out records and descendants by same name might still occupy it. I hope this fine spring weather may find you & all your family well & happy like your friend,

J. W. DILLMAN.

EXHIBIT 20. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *M'ch 22nd*, '81.

DEAR FRIEND: I purpose leaving this city by to-morrow for the home of my boyhood. Mother died several years since while at Pensacola, Fla., as I think I wrote you from there, & father has sold the old homestead & is going to live — his sister, &, having some things there, find it necessary to go home earlier in the spring than might otherwise prefer, because of the moving shortly. Shall be to Lancaster in about a week from now & shall make an effort to find the Hammel farm. If you have any additional information that might throw light thereon please write such & direct to Lancaster city, Pa. Have the letter in which you gave all the information then in your possession, but it is rather vague & indefinite. If I could learn the name of the person to whom Jas. Hammel leased the farm, might possibly find a record of such sale of it, as he might afterwards have made of it. A simple lease is not likely to be recorded. As said, would rather go to the country in May, since it is yet cool & far from fine weather—almost daily rains, as if to make up for the cold, dry winter just completed & the most perfect one ever saw. Hope you have entirely overcome that rheumatic trouble complained of last winter. You should avoid exposure to
226 cold & dampness as much as possible. Keep within doors as much as possible during rainy weather. To become chilled is at all times injurious to you, but more especially during damp or wet weather. We are having at present very bad weather for persons thus suffering, & doubtless no better in Ohio. Working in the cold ground is of course injurious. Wearing cork soles in boots would benefit you largely. Of course, to be out in dry sunshine weather with feet well protected is as beneficial as the opposite is injurious. Proper care in these particulars will benefit you more than all the medicine attainable. Liniments often aid, but more from the rubbing in their application than from any inherent virtue in themselves. Being simply chronic muscular rheumatism is not likely to result in any other evil than the pain & torture resulting. Very unlike acute articular rheumatism. My health, am happy to say, continues good; slight colds alone annoy me, which during a winter like that just past cannot be sufficiently guarded against. Will be back in about three weeks, & same address as before.

Very truly, J. W. DILLMAN.

EXHIBIT 21. H. F. Burket, Notary Public.

PHILADELPHIA, *May 20th*, '81.

MY ESTEEMED FRIEND, MR. HASTINGS: Yours of 17th inst. rec'd and the most pleasant information is that you are steadily advancing toward perfect health. Relative to the Boggs estate, shortly after writing to you I called on the clerk of orphans' court, who examined all his books & records, but found only one Boggs estate

pending settlement, &, it being but a small amount instead of
227 $1,000,000, according to your previous letter, concluded it
could not be the same, & as the name (Jane) you now give proves. That in court is Samuel Boggs; died in '79; kept a restaurant on 11th St. I next went to register of wills' office; there found a number of wills recorded by name Boggs—Margaret Boggs, 1859; George B. Boggs, 1867; Wm. L. Boggs, '68; Caroline M. Boggs, '73; Virginia C. Boggs & Samuel Boggs, '79. The last, as said the only one pending in orphans' court. Since you in your last give name (Jane), & probable date, '75, will again interview the clerk of orphans' court before mailing this, & if learn anything additional will enclose such herewith. Accurate records are kept & are accessible of all business of this nature, & if you can furnish me definitely the necessary information will very gladly look it up; should have name in full (middle name, if any) of the party leaving the estate, date (near as possible) of death, whether a will or administration, names of parties interested. If could obtain names of parties settling up the affair, would make it an easy matter if so recent as 1876. Her husband's name & occupation might make it an easy matter to trace the family; must have been prominent if one family & finally one person (Jane) left about $1,000,000. It may not yet have been brought up in orphans' court, but, if any will, that can be found & also letters of administration must be on file; although Boggs is not a very common name, still, as one can readily imagine, in so large a city many of the same name may appear. I learn by your letter that there is at present not very much demand for money, even at 8 per ct.; still shall enclose here-
with three one-hundred-dollar notes, so that you may have
228 it on hand should any one wish it at that rate, & if not return
this or any other of my money you cannot loan securely so as to net me 8 per ct. The sudden fall in interest is too much to long continue. Money becoming at once plenty in your locality will doubtless incite a spirit for general speculation should — be less difficulty in selling farms, etc. In this city extensive improvements are being made, both private & public. The General Government is erecting a large & very fine building for a post office, courts, etc. (of granite). The city is building an enormous marble palace for a city hall, city offices, courts, etc.; total cost estimated at from 12 to 15 millions; many good stores & residences torn down to make room for more extravagant buildings. The Penna. R. R. is spending millions building an elevated road & bringing all its roads to center at one grand depot in the heart of the city, a great convenience to the travelling community, but the monopoly is feared by many.

Very respectfully, et-., J. W. DILLMAN,
No. 1809 *Market St.*

P. S., May 24th.—Nothing known of Jane Boggs' estate at orphans' court dep't, & this only proves that it has not thus far advanced yet, not yet filed for settlement, but give me all the particulars you can & will with pleasure hunt it up. The Nebraska folks should be able

to inform whether a will & fully, in whose name, the year, etc., as noted on another page.

J. W. D.

EXHIBIT 22. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *Nov. 25th*, '82.

MY DEAR FRIEND, MR. HASTINGS: Yours of the 4th inst.
229 rec'd & contents duly noted; glad to learn that you were all, like myself, well and happy, only I fear cold (as — learn by papers) through your section is rather severe & early, interfering with the harvesting corn crop; at least comfortably. Rather prematurely cold here last few days; still while uncomfortable North it has proven a great blessing South in yellow fever destruction. No; to me yellow fever fails in being attractive. It is too obstinate a disease, or, rather, we know too little about it; know of no remedies to combat or antagonize it. It is far from pleasant to stand by and witness the rapid decline of a patient with no means of benefitting him effectually, as we usually can in all other maladies; will rather treat anything else. Was severe again in Pensacola, Fla., but New Orleans has learned that by proper sanitary measures (the only remedy) it can be kept away. Well, the election is with the past & your surmise even more than verified. The Republican party was badly demoralized in this State & it seems little, if any, better elsewhere. I hope the day is past that intelligent American people can be led by corrupt politicians. All should be prepared to judge for themselves & need no bosses to judge for them or lead them by the nose. This State has elected a very young man but good man—a Democrat yet not a politician; claims no party. The Republicans elected him city controller & never had a better official. Money seems to be getting scarcer East—presume West, also—moving grain, etc. College & R. roads mark the enterprise of your
230 vicinity; naught could better. Was rejoiced to learn of your prospects for an Eastern tour; hope no obstacle may interpose. Please write me in time, if known, that I may have the great pleasure of seeing you. Am frequently absent from Philadelphia, but think can make it suit to be here almost any time if known some time beforehand. Have never heard you speak of being through this part of the country; at all events, would now be new to you. Wish you could have been here this week. A Bicentennial was a great success; as good as Centennial ever was. The New York papers, which make light of our matters, of course ridiculed everything. Nevertheless we were successful in getting up a good Centennial. During the Bicentennial the city was thronged even more than the Centennial. Then the crowd was out on the grounds; this time all in the city proper.

George Alexander gone to Kansas; doubtless benefitting his family, if he has a large one and plenty to work his farm. Western people seemingly are more inclined to go West than Eastern people. Why is it? I still think Penna. farmers make more money by

farming proper than Western farmers. Hoping to hear from you ere long again,

Yours fraternally, J. W. DILLMAN.

231 EXHIBIT 23. H. F. Burket, Notary Public.

PHILADELPHIA, PA., *Oct. 12th*, 1884.

MY ESTEEMED FRIEND, MR. HASTINGS: It is a long time since hearing from you, & in order to remind you of one in the East ever anxious to hear from you & your family shall write you this short letter, although have nothing special to communicate to you at this particular time, my health, etc., continuing as of old. Have thought possibly you might turn up in this city during the electric exhibition, which has enlivened the place considerably, many being drawn here from other parts of the county. The display is very fine, both beautiful & wonderful. The very many and varied uses to which electricity have recently been applied are truly astonishing & everything thus far discovered through the inventive genius of man is here well illustrated & practically demonstrated. Is it not about time for you to make another Eastern journey either on business or pleasure? Is the interest & prospect in Harlam flats, Trintz, etc., still maintained & worked with the same energy as last year? Hope it may be the means of bringing you East ere long again. The present would be most desirable for such a journey, the weather everything could possibly be wished for; never remember seeing such continued fine autumn weather as has thus far been. Have had no frost yet & very little rain, just the reverse of our cool, wet summer. Political matters are in a high state of
232 tension, although not near so much so as in your State. The great desire on the part of both parties to carry Ohio on Tues'y next for the effect it is supposed to have in the way of influencing other States in the presidential election makes that State the present centre of operations for both parties. As Ohio goes next Tues'y so will most likely the nation go in Nov. A few months since I felt certain that the Democratic party would be victorious, but it looks to me now as if the Republican party had made more progress of late & possibly may be victorious. For my part, care very little. I do not fancy either candidate much, & there exists at present no real issues between the parties, while occasional changes would be beneficial to the country generally. Remember me cordially to all, & write as soon as may be convenient.

Most sincerely, etc., J. W. DILLMAN.

EXHIBIT 24. H. F. Burket, Notary Public.

CONTINENTAL HOTEL,
PHILADELPHIA, PA., *Oct. 30th*, 1884.

MY DEAR FRIEND & BRO. H.: Was very glad to hear from you again—of your improved health, etc. You did not seem very strong when here—that is, compared with your standard of health as seen among the Pleasant Valley hills. Hope Son John has by this time fully

recovered. You did not state that *irre*sipelas followed any wound or injury, as is quite common in the East, especially in large cities, but a rare disease without such cause or irritation to start it, but I think more common in the Western States. Had an uncle living near Canton, Ohio, a farmer, & in excellent health generally, but fre-
233 quently had attacks of *irre*sipelas trouble, — to no visible cause. A severe attack finally caused his death, but such a termination is rare; being superficial, must extend over most of the body at same time. It certainly requires great patience to work up a claim like the Harlem, etc. Think of the Mansfield man (have forgotten his name), who has been working at it now about 12 years, & does not seem like near the end yet. Washington will be a good place to meet; should like to be there at time; am thoroughly acquainted, & could show you all points of interest, but you do not seem to take much stock in sight-seeing, judging from Philadelphia visit. Along the Ohio line in W. Virginia, as your last informs, you have been in a wonderfully romantic country, charming to lovers of romance Yes; we have thus far also had a remarkable autumn, very warm & delightful weather, only at times oppressively warm; even last week thermometer up in 70; summer, cool & wet; autumn, warm & dry; crops, etc., very good; fruit plenty & vegetables abundant, & yet business much depressed through all branches. Somewhat natural, presidential election, yet far more so than usual, showing that the cause must be looked for through other sources. Philadelphia is over the worst now; law forbids & prevents political processions one week previous to election; hence our political clubs (& they are legion) are off much of time to neighboring cities to swell their ranks. Thousands are preparing to go to New York Saturday eve next, when, if weather be favorable, one of the largest pro-
234 cessions may be seen ever witnessed in this country. I fully believe it would be a great blessing to this country if Cleveland would be elected, but am sorry to say that, to me, it now appears he is losing ground every day, & by next Tues'y Blaine will have passed him. It looks to me as if Indiana has been worked up just as Ohio was for Oct. election by any & every means possible, fair or unfair—no matter, only so the desired result was accomplished by the Republican party. They are in power, & mean to stay if money or aught else can keep them there. Consequently I think Indiana will follow Ohio & give the Blaine electors a small majority, with a sufficient number of other doubtful States, such as Mich., Conn., N. Jersey, etc., to elect him without New York State. N. York State has yet every appearance of being on the Democratic side of the house, & cannot be changed in the short time remaining with all the money or whatever means the Republicans can employ. The Stalwart element is no small factor there. The independents also are not few. These more than balance the Kelley faction's defection. Conkling has a large & potent following in that State. Blaine tried hard to conciliate him & put him into harness, but he would not yield a particle. Blaine had done him an injustice that his proud spirit will never permit him to pardon. Conkling would not condescend to carry his ends by dishonest means,

while Blaine, as everybody knows, has no scruples whatever on that point; will do anything to carry his ends. Hope to hear from you ere long & whenever convenient.

Yours, etc., J. W. DILLMAN.

235 EXHIBIT 25. H. F. Burket, Notary Public.

CONTINENTAL HOTEL, PHILADELPHIA, *Dec. 6th*, 1886.

MY DEAR SIR & BRO.: Yours of 2nd inst. very gratefully rec'v'd, & regret exceedingly to say that it suits me very badly to leave here or be absent during the time you will be in Washington. I should like very much to meet you again, & especially in Washington, where I am well acquainted & could aid you greatly in making the best possible use of your short stay in seeing the most interesting sights the city has to present; but a few years later I shall have more leisure time, and your Eastern tours are not likely to be cut short just yet. The business calling you East just now is likely to continue yet for years, & a better opportunity will doubtless arise in the near future. Should you perchance go to New York or Phila. please address me a card from Washington, that may be sure to meet you at depot if even only pass through this city. Unfortunately the day (Sunday) you will have most time to look around is a very shut-up & quiet day in Washington. Everything closed; little else than public grounds to be seen. If you get into the city early enough, Saturday would be a good time to see the Corcoran art gallery. It is open from 10 to 4 Tues'ys, Thursdays, & Saturdays free; other days, 25 cts. admission. All the public buildings are open every day to all. The Corcoran art gallery is near the White or President's house. You will find the Smithsonian Institute a very interesting place; also the Agricultural, Horticultural, etc., Depart-
236 ments. The navy yard might interest you, but it is a distance from the business parts of the city & is not near so extensive as those of N. Y., Boston, etc. The Patent Office & Treasury are not far apart. The Capitol—to see & hear the most distinguished statesman will, I should think, well repay you for time there spent. All places are easily found; any one can direct you. Washington monument, just completed & the highest spire of any kind in the world, & grounds surrounding can be viewed Sunday. Washington is a beautiful city of streets, in this far surpassing beauty or fine buildings other than public buildings. Hope you may enjoy good health & have a pleasant time. Write often as convenient. Always glad to hear from you.

Yours, J. W. DILLMAN.

EXHIBIT 26. H. F. Burket, Notary Public.

PHILADELPHIA, *Jan'y 26th*, 1885.

MY DEAR SIR, ETC.: Yours of the 17th inst. rec'v'd, & which was anxiously awaited in order to learn relative to your visit to Washington, but instead it brought me news of your confinement to room. You have thus far been exceptionally fortunate, compara-

tively few of the ills of humanity falling to your lot, your strong and naturally very healthy constitution warding off many, & also enabling you to speedily overcome those overtaking you, as is shown by your present speedy recovery, but permit me to remind you, without giving cause for uneasiness, that the tendency to recurrence of your present illness may remain, & consequently it might be well for you to guard against (as far as may be possible) all predisposing causes.

237 Of course a small vessel gave way; blood poured out; forming a small clot, pressing on the brain, caused the trouble. This clot is rapidly becoming absorbed, and you will doubtless soon be as well as before, but as, said, the tendency to recurrence may still exist; hence you should avoid everything which may cause an increased quantity of blood in the head—violent exercise or labor, stooping or low position of head, excitement, & even severe coughing, sneezing, straining at stool, etc., may precipitate an attack when the tendency thereto exists. All stimulants & even large quantities of ordinary fluids fill the blood vessels, thus increase the arterial tension, & a rupture is most likely to follow if the walls of the vessels be weak. I do not mean that you should retire from business or active exercise generally; this might increase the tendency & do more harm than avoid- existing causes; but you should avoid extremes & everything that you find causes a fullness of or flow of blood to the head. Nothing is more remarkable than the great amount of injury the brain may at times sustain without serious results, & in other instances only a small blood clot proves so very disastrous. Never having seen you in other than perfect health, can scarcely reconcile myself to the idea or belief that aught else can have become your misfortune, & yet few escape such, even the naturally very robust and healthy like yourself. The past has been a trying winter, yet it has been my good fortune not to take even a bad cold, coming out with the present warm spring weather

238 heavier than for years past. Although a cold winter & late spring, still we are now having real warm & dry weather, too dry, in fact, for vegetation to start fairly, but very good for farmers to work the soil & at which they seem very active. But little snow to protect wheat; does not look very well in this section; a lull in political affairs here afford*ing* an opportunity to study England's troubles. I think Russia is determined on war; wants Constantinople.

Fraternally yours, etc., J. W. D.

Address 1809 Market St., Philadelphia, Pa.

EXHIBIT 27. H. F. Burket, Notary Public.

PHILADELPHIA, *April 21st*, 1885.

MY DEAR SIR & BRO. HASTINGS: To your last short letter or note, informing me of paralytic stroke, replied immediately & have waited ever since very impatiently to learn as to your state of health, etc., being then already rapidly on the way toward recovery. Am apprehensive that you may have had a recurrence & and more severe

than the first, yet ardently hope that such may not be the cause of your long silence. Should sickness or aught else disable you from writing, I sincerely hope some other member of the family will do me the favor of writing and relieving suspense, which is never desirable save in being cut short. To you, confinement to the house is doubly always a severe task, but in this instance it happened in such season of year as to render it far less trying than during warmer weather, although here thus far has been a very mild winter, a few small snows, but each time ending in rain & melting all, leaving the surface uncovered by snow, doubtless to
239 the great detriment of vegetation generally. Every few days rain & a general thaw, followed by freezing, with no snow on the field, is far from desirable to the farming community. Throughout the West generally notice in papers much & severe cold weather. Sent you papers last week in which Dr. Benan is well ventilated. It is the same man for whom the unfortunate Dr. at Lucas acted as agent in selling his bogus diplomas; hence my calling your attention especially thereto. His picture indicates a mild & pleasant disposition; but a man guilty of such deeds as he certainly can have very little of the milk of human kindness in his soul. If he were to license persons to preach the gospel or even practice law there could very little harm result therefrom; but this giving uninformed men the semblance of authority to prescribe medicine, which, in overdose or, when contra indicated, may destroy life, is, in my opinion, as great an evil as killing outright or in a more direct manner. He is now in prison awaiting trial in court, which will doubtless result in confining him in prison a longer term than that recently ended or served out. Very strange that the man should fall right into the same line of doings again which had sent him to prison. His case is now complicated by his wife turning against him. Formerly she stood by him through all his trials. The natural-gas excitement seems to hold out well in Findlay. Hope success may eventually crown the great efforts put forth; would add greatly to the importance of the place. Glad to learn the rest of your family are all well. In this line I am also up to par & hope to hear
240 from you soon again, & that your former good health has been fully regained, while I remain as ever,

Yours fraternally, J. W. DILLMAN.

EXHIBIT 28. H. F. Burket, Notary Public.

PHILADELPHIA, *May 22nd*, 1885.

MY ESTEEMED BRO. HASTINGS: Was rejoiced to receive your good missive of the 7th inst. & learn that your state of health is again, at all events, tolerable. From your long silence, after promising to write again soon as better, began to think the better had not come & feared even for the worse. Truly you did have a severe overhauling during the winter; as one trouble yielded & disappeared another followed close in its footsteps, affording scarcely breathing space between, until the mild spring weather apparently brought about a cessation. After such a winter's experience you certainly

have good cause for searching about to find, if possible, some remedial agent *whether* [to eradicate any ills which may still be lurking in your system ready to burst forth soon as another favorable opportunity presents. With this end in view you request my opinion relative to mineral-spring bathing, etc. This will gladly give you in as condensed form as can on paper. I am only sorry that do not know quite as much about your real physical indications, as should like to advise more intelligently. In the first place, should like to know the cause of the dropsey from which you suffered. Dropsey (as you may be aware) is never a disease. It is a mere symptom of some other and may be
241 a symptom of several*ly* totally different diseases. In a person of your kind my efforts would first be directed to the examination of the kidneys, both chemically & microscopically, which tells to an absolute*ly* certainty whether or not disease there exists—should have said examination of urine. If your kidneys be affected, then your best means for recovery, I should say, are mineral springs & appropriate treatment combined; but I am inclined to the belief that your kidneys are all right & that the dropsey was due to general anemia. For a person from youth up accustomed to outdoor & active life to be at least partially confined from a paralytic stroke, followed by close confinement in a chair by asthma for five weeks, is quite sufficient cause to bring about anemic condition of system. Sooner or later the appetite fails & very little of the food which is taken digests or is assimilated, so that the blood, receiving but little nourishment, becomes impoverished, thin, or watery. Part of the excess of water oozes through the walls of the blood vessels and by gravitation finds its way into the most dependent parts of the system, the feet, as in your case, while sitting. Although, as said, my knowledge as to how your troubles were brought about, etc., is very imperfect, yet am strongly inclined to the belief that the above is the real condition of your case, & that at present your chief, if not exclusive, trouble is debility. The question then arises, how can you quickest & most permanently build yourself up so as to be proof against future attacks of disease?
242 In my opinion, by simply taking such medicine as iron, etc., to tone up your system, improve your appetite, and regulate all exertions; good, nutritious, & easily digestable food, pure air, & carefully regulated out-of-door exercise. All this you can have at home & better suited to you taste than elsewhere. At home you have all the attendance you want; can order things as you like, & have the necessary mental recreation to prevent weariness, etc. Exercise to strengthen & build up must never be carried to fatigue; must stop short when slight weariness is felt; if carried beyond, its effect is to debilitate instead of strengthen. Perfect rest of an hour or more should follow each meal to enable food to digest properly. If digestion should be weak a glass of ale or porter with dinner aids largely, not because of its own nutritious properties, but from its stimulating digestion, & more nourishment is obtained from food. Now, *this* so-termed depurating or blood-purifying mineral springs are those containing large quantities of various alkaline salts. The

baths are most efficacious taken warm, but are very weakening & debilitating in their direct effect on the system. This is overcome by stimulating drink and food. After the blood has been purified the system rapidly regains its tone. In rheumatism & gout this is occasionally the best means to eliminate the poisonous matter upon which they depend. You do not state having suffered any from rheumatism since a previous winter; hence may believe your blood free from that impurity now. Asthma, your chief trouble this winter, is caused by a spasmodic contraction of muscular
243 fibres in the smaller bronchial tubes; hence it has no poison which can be eliminated by mineral baths. These, the only baths which could benefit you, would be those containing iron & other tonic salts; yet very little could thus enter your system; far more by drinking the water; but you can take all these tonic salts in the form of medicine that your system can appropriate, or any druggist will furnish you with any mineral-spring water you may wish to drink at home at a very small cost, compared with going to springs. Of course, you would gladly pay any price for a certainty of regaining your health & permanently establishing perfect health. Nevertheless, if my view of your present condition be correct you will do infinitely better by retaining your money now & spending it next winter, going South, & pass the winter in a mild & equable climate, since it is during the winter chiefly, if not exclusively, that you suffer & soon as warm weather comes you recover. This would indicate that your system of late has not been sufficiently strong, etc., to endure the cold climate or winters of your locality. By confinement to warm room the cold would be obviated; but the confinement might prove even worse in the end than the cold. I would then say spend the summers at home, managing your farm at home & other business, but do no hard work. Soon as you find yourself getting tired stop & rest; eat plenty of fresh beef & mutton; never go to work immediately after any meal; accustom yourself to sleep an hour after dinner; never retire at night
244 with an empty stomach or hungry; even a simple glass of milk will prove highly beneficial. Farmers seldom know the great value of milk as food. The same may be said of soft-boiled eggs. One, if not the greatest popular, delusion is the universal belief that it is very unhealthy to eat a hearty supper just before retiring. On the contrary, there is no better time to eat than just before retiring. Food digests better during sleep than while exercising either mind or body, & sleep is even sounder than if stomach is empty. See, then, the great loss to human vitality from this belief. The best time to replenish the system is wasted. Of course, if we overload our stomach it burdens us, day or night. Feed a babe & it sleeps until its stomach is empty, when it wakes, but may be pacified & sleep again, though only a short time; will wake & won't sleep until feed. Put a horse hungry in his stall he paws all night; feed him & he sleeps. Turn a cow into pasture she fills her belly; then lies down & sleeps. All nature points to food before sleep. Man by force of habit has accustomed himself to sleep on an empty stomach; but we force many habits upon ourselves contrary

to nature's better laws & teachings. By adopting proper hygienic measures with the addition of such tonic medicine as may be indicated, I think you will soon regain your health and strength at home. Please write soon & as often as convenient, informing me of your progress & general condition. Shall gladly furnish any information you desire.

Yours fraternally, etc., J. W. DILLMAN.

245 EXHIBIT 29. H. F. Burket, Notary Public.

PHILADELPHIA, *Oct.* 5, 1885.

MY MUCH ESTEEMED FRIEND, ETC., MR. HASTINGS: Am very sorry that yours of July last should have so long remained unanswered. Since my return to the city short time ago my time has been very closely occupied, but am rejoiced to find a change now so that have time for writing & to attend to fairs & exhibitions in progress here. From your last learn of your slow progress toward recovery, up to that time pretty generally confined to the house. I trust, however, the mild summer weather of your locality has enabled you to pass much time out in the open air, so that you progressed much more favorably than during the spring season & now find yourself again in fair health. If mistake not, the winter season is the severest upon you. Either the severe cold or changeable climate exert an unfavorable influence upon you. I should think you could avoid much of either. Cold air breathed is seldom harmful unless have diseased air passages. Its evil influence is chiefly due to a general chilling of the system. This can be avoided by heavy wool coverings, but damp cold is especially depressing upon the vital forces, &, I think, in your case needs particularly to be guarded against. Better not go out cold, damp days, & make up for it by bundling up well on clear, cold, & dry days, driving out to inhale the pure, bracing air, or, better, walking, if strong enough so as not to fatigue. If in a debilitated condition like last spring you would be greatly benefitted by passing the winter in a warm, dry, &
246 equable climate such as is met with in parts of South Carolina & Georgia; better still, Arizona, but that is far distant. I hope, however, you have so far recovered during the warm weather that by care you can keep yourself very comfortable & well in your own home, where you can always do as you choose & secure more comfort for yourself than in hotel life or among strangers. Findlay, apparently, is favored with very enterprising inhabitants, determined to obtain all that is profitable, even from the bowels of the earth. Gas & oil may yet make a great place of it. Favored with railroads, manufactories should follow, especially if natural gas continues. I presume farm land has much increased in value during the last ten years. Surrounding the thriving town with R. R's in every direction, farm products can be transported to the best markets. Direct through your farm may be bringing them nearer than desirable. Railroads here have done some good fighting. The Penna. R. R. has become a very powerful corporation. Only by a general rise of the inhabitants the Baltimore & Ohio has at last

secured the right of way into Philade. & is now busy at work building the road & still fighting for crossings. We are now having two important exhibitions—a State fair (agricultural) & a novelties' exhibition given by the Franklin Institute, somewhat on the order of the Centennial, only smaller, both continuing a month, & are drawing many persons from the surrounding districts to see & learn from the display. Business generally is fairly active. Considerable improvement over a year ago, yet less than one might infer from news-
247 papers gossip. Newspaper men are beginning to think they can make or break business, do or undo anything, as they jointly see fit, & with sadly too much truth, in my humble opinion. The populace in general or mankind in particular are far too easily swayed by the many well-known irresponsible newspapers. There seems to be an increasing lack of thought—so many people depending upon others to do their thinking for them. Political matters of the day furnish good example. Ohio will doubtles- have a hot time from now until governor's election. I see the two candidates are to meet & discuss party merits in Detroit & Cin. Am enjoying fair health & all could reasonably hope for. Hope you have much improved since last wrote & all family are well. Please oblige by writing soon as convenient; am anxious to hear how your health is.

Very truly, etc., J. W. DILLMAN.

P. S.—Shall very gladly answer all questions & give any advice you may desire. Please be free in asking; you have done me more favors than can ever return.

EXHIBIT 30. H. F. Burket, Notary Public.

PHILADELPHIA, *Nov. 21st*, 1885.

MY ESTEEMED BRO. HASTINGS: Yours of Oct. 28th & Nov. 16th were duly received. As a grateful recognition of your liberality and promptness shall avoid delay in replying. Am rejoiced to learn that your good health continues, the fortunate lot of all; hope will succeed in taking such care of yourself the coming winter as to escape the ills you seem liable to during this season. The
248 avoidance of both extremes (such as too much exposure to inclement weather & too close confinement to impure within-door air) I think will secure you the coveted exemption even in the severe & changeable climate of northern Ohio. Avoid exposure to damp weather, still have your room well ventilated while temporarily in another, & always fire to dry & keep air moderately warm. You seem now healthy enough to go out all dry days, no matter how cold it may be, but be sure to be clothed thickly enough not to become chilled. Seek as much sunshine as possible, not alone on going out, but give it free access to your room by unobstructed windows. Much harm is often done by getting out of a warm bed into a cold, damp room, becoming chilled while dressing, etc., so likewise in getting into a cold, damp bed; hence the necessity of fire in a sleeping-room of the invalid, yet during sleeping hours

should not be so warm as the sitting-room. Thus you observe that by care the most severe & rigorous Northern climate can be converted into a comparatively mild & harmless one as to its effects upon the system, etc., almost to any extent the necessities of the case may demand. Pure air, sunshine, good nourishment, & properly regulated exercise are powerful agents not only in overcoming disease, but also in fortifying the system against attacks by raising the vital powers above that point at which disease is more likely to gain a foothold. The great difficulty with most people is that they think they can stand more than they really can. It does certainly look as though Findlay had a bright future, with wells spouting salt, oil, & gas, in addition to important railroad- buildings through. A general business
249 prosperity must follow. Yes; $1,000 p'r acre is a very good price for land which cost the seller, perhaps, $50. It doubtless includes the land on which the most promising wells are located. From your writing I infer that the wells as yet embrace but a small extent of surface around the original well. You, about a mile distant, may be fortunate enough to have another centre developed on your tract of land, but even without oil on your land the general activity given to the town & vicinity will soon advance your land to double its former value, so that in any event you have greatly profited by leaving Richland Hills. I well remember the oil excitement we had here when first discovered in the western part of the State. Although it would scarcely be possible to raise similar excitement now, with whatever quantity of oil found still in small places like Findlay would be more contracted and give it all the life quiet & prominent residents might wish to have. There doubtless was quite a furor on the departure of the first oil train. Hope the quantity of oil found will prove sufficient to warrant the establishment of oil refineries employing a large number of workmen, which would give new life to the place; so likewise if gas sufficient continues, for manufactory gas would certainly be a capital fuel for brick-making. Should suppose they could devise means by which to burn the crude oil for brick-making. Philad'a, since the election excitement subsided, has been very quiet & politicians seem all
250 now departed in search of rest; even the approaching meeting of Congress seems to create no stir amongst them. What a blessing if it could remain quiet. The liquor business is now under better control than ever knew it here. All saloons closed Sundays; fining them did no good, but revoking license cured them quickly. I purpose passing the winter quietly in this city in preserving, as I now enjoy, fair health. Oblige by writing when convenient.

Yours, etc., J. W. D.

251 EXHIBIT 31.

PHILADELPHIA, *Apr. 2nd*, 1881.

Mr. J. Hastings.

MY DEAR SIR: Yours informing me that "money is plenty this

spring in your locality" & that you can no longer obtain 10 p'r ct. int. for me, but only 8 p'r ct., did not take me by surprise. In fact, I anticipated such, judging from the recent decline in the rate of interest here. This decline is certainly a blessing to your neighboring farmers, who must have found it up-hill work to pay 10 p'r ct. & more up to this spring. I shall be perfectly satisfied with 8 % net annual int., & hereby agree to your investing so long as you can at this rate securely loan my money, but should the rate of interest decline still further, so that if at any time you cannot obtain this rate for me, please return all you cannot so loan. I can invest it in a business enterprise here that will net me fully 8 % per annum. In accordance with my acc't, if I have calculated correctly, the sum in your hands on the first inst. amounted to about $10,500. I should like to know how this corresponds with your acc't. Hence you will please inform me what amount your acc't shows to my credit April 1st, 1881. Especially since there is now a change in the rate of interest, I think this a very good time to know how our accounts agree. Concerning the Boggs estate, have not as yet had time or a favorable opportunity to look it up, but shall do so very shortly & thoroughly, so as to inform you fully what there may be in it; glad to learn that you are making some progress, even though slowly, in overcoming your rheumatic difficulty as the weather becomes more settled; dry & warm you can reasonably hope
252 to improve more rapidly. My health continues fair.

Very sincerely & fraternally yours,

J. W. DILLMAN.

EXHIBIT 32.

PHILADELPHIA, *Dec. 21st*, 1885.

MY ESTEEMED FRIEND & BRO., J. HASTINGS: Being exceedingly anxious to know or ascertain as near as practicable the amount of my worldly possessions with the closing of the present year, must again respectfully request you to send me an acc't of your work in the way of negotiating loans for me. Although I do not like to give you any unnecessary bother or labor, still I trust you will oblige me by sending me a full statement showing the sum total standing to my credit on your books Jan'y 7th, '86, as soon as may be convenient to you. To spare labor & so enable you to respond promptly shall enclose herewith a post-paid & addressed blank letter, so that you can in a few moments write the desired information therein & mail. Hoping you & family are all in the enjoyment of good health, as is my good fortune to be,

I remain very truly, J. W. DILLMAN.

PHILADELPHIA, *Jan'y 4th*, 1886.

Jos. Hastings, Esq.

MY DEAR SIR: Your kind favor of the 28th ult. very gratefully received, containing a full list of the various sums of money sent you, with dates when so received by you, which, although not compared, I think corresponds with your former lists sent me. You

refer to the interest as a "big thing to wade through, but when more at leisure will tackle it." I infer from this my mistake in
253 supposing as did that there might be a year's int. or so to calculate, & am very sorry to have urged this matter upon you at a period when so much other business claims your attention; but if you will please send me my acc't as found on your books, with the necessary explanations, so that I can calculate the interest thereon precisely as you would, & thereby obtain the same result, I will very gladly calculate the int. & so relieve you of this task, & will send you my work thereon in full, in order that you can examine & compare with your work when more at leisure. Please also inform me about what am't becomes due shortly or may be collected. I desire purchasing property for my sister for $5,000 of it. An early reply will be very thankfully rec'd.

Yours fraternally, etc., J. W. DILLMAN.

EXHIBIT 33.

PHILADELPHIA, *Jan. 7th*, 1886.

MY DEAR FRIEND, MR. HASTINGS: Since my last to you have thought the matter over, & on again reading your letter of the 28th ult. think I see that your idea in sending me a full list of the various sums of money sent you for investment & the dates when rec'd by you was thereby to enable me to calculate the int., to find the amount due me Jan. 1st, '86, in accordance with my express desire, having frequently informed me previously as to the rate of interest you were getting for me. This, of course, by compounding the int., would give what the am't should be Jan'y 1st, provided there were a definite time of reduction of all from 10% to 8% interest.
254 Although you wrote me in the spring of '81 that money had become plenty & you could no longer obtain 10%, but only 8%, for me, & I requested you so to loan, but if for any you could not obtain 8% you should return it to me, which gives a continuous rate of int. or covering the whole time, still, the money being loaned to different persons, with notes maturing at all seasons of the year, as you wrote me in a former letter, I cannot fix with as much accuracy as would like to upon the time of reduction from 10% to 8%. Am very sorry that should hit upon a time so inconvenient to you to urge a full settlement of our affairs, but if you can take time to copy my acc't from your books & send to me I will most cheerfully relieve you from all other labor in the matter at present. Hoping to rec. the acc't at your earliest convenience,

I remain, very truly & fraternally, yours,

J. W. DILLMAN.

EXHIBIT 34.

PHILADELPHIA, *Feb'y 2nd*, 1886.

MY ESTEEMED FRIEND, MR. HASTINGS: For days have I been looking for a full reply to my last (Jan'y 14) & the remaining list of notes promised in yours of Jan'y 8th, when this morn- it occurred

to me that you may be similarly waiting for me to send my work on list already sent, to see what instructions may be necessary or explanations to send with the second list; hence shall enclose herewith, not only the result, but my work in full of all notes, so you can clearly see & correct any error or misunderstanding because of irregular payment of interest; but all seems paid up to time when last due. Note No. 1 pays $200 nearly 5 mos. after
255 int. due, hence I allow him int. on $200 to end of second year & deduct am't from am't of note at same date. This, although int. on int., is simple justice, I think, to both parties Am I correct? If I have made no mistake, all the notes, with payments deducted Jan'y 1st, '86, am't to $5,081. If any part be obscure, please inform; shall gladly furnish any explanations, etc., both fully and promptly. I consider a full & fair understanding essential to success & happiness in everything, but in business transactions doubly so. Hope by the time this reaches you it may be your good fortune to have overcome the press of business met on return from Pittsburgh, so as to enjoy ease & comfort & yet have ample time, so as not to worry, in giving me full information on the points solicited by recent letters. Hope also you have been spared the ills endured previous and less severe winters, so that, with your family all well, surrounding you, and approaching spring, life present its brightest side to your view.

As ever, yours very truly & fraternally,

J. W. DILLMAN.

EXHIBIT 35.

PHILADELPHIA, *Jan'y 14th*, 1886.

MY DEAR FRIEND, MR. HASTINGS: In your favor of the 8th inst., now before me, I find a list of abstracts of 15 notes held by you as security for money invested for me, with the further statement that "all bears interest at 8%;" also that you will shortly send an additional list of such notes, which shall anxiously await, & trust you will oblige by sending at your earliest convenience all the remaining such notes held by you, together with all deductions or
256 offsets, if any, against my account, in order that I may be enabled to find the am'nt standing to my credit Jan'y 1st, 1886. You will please also, instead of reinvesting the interest as heretofore, retain such, & collect also the principal of all notes maturing up to the am't of $5,000 & send to me. I have purchased the property for my sister previously referred to & should like the $5,000, soon as can be obtained, with which to pay for it. I would suggest that you remit the first of each month the am't collected preceding month.

I remain sincerely, etc., J. W. DILLMAN.

257 *Defendants' Testimony.*

Afterwards, on the 13th day of September, 1887, the following depositions were filed on behalf of the defendants, viz:

Caption for Depositions.

Depositions taken before me, Louis A. Carabin, a notary public within & for said county of Hancock, in the State of Ohio, pursuant to the annexed notice, at the time and place therein specified, to be read in evidence on be-lf of the defendants in an action pending in the circuit court of the United States, northern division Ohio, in and for —— county, in State of Ohio.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMOND, Administrators of Joseph Hastings, Deceased, Respondents.

Present: Rufus H. Baker, solicitor on behalf of complainant; Whitely and Bope and M. D. Shafer, on part of respondents.

MARGARET ALEXANDER, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

By M. C. WHITELY:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Margaret Alexander. I am sixty-three years of age. I am a housekeeper by occupation, and I reside at Phillip Reimond's, in Liberty township, Hancock Co., Ohio.

2 Q. Did you know Joseph Hastings, deceased, in his lifetime?

258 A. Yes, sir.

3 Q. Where did said Joseph Hastings reside during the last nine years of his life?

A. In Findlay township, Hancock Co.

4 Q. State whether he was married or single, and, if either, how many did he keep in his family, and, if any, name them.

A. He was married to my sister. Why, his daughter, Elisabeth Hastings, and myself; yes, sir.

5 Q. Where was his wife?

A. His wife died.

6 Q. When did she die?

A. Indeed I don't know that; I can't tell.

7 Q. How many years ago?

A. Near as I can tell you, about eleven years ago.

8 Q. Can you state how much land Joseph Hastings owned during the last eight or nine years of his life?

A. I cannot.

9 Q. Was his farm large or small?

A. It was a large farm.

10 Q. State generally the habits of Mr. Hastings as to economy or otherwise during the last eight or nine years of his life.

A. He was saving. He didn't tell people his business, as I can tell.

11 Q. State whether at his death he was indebted to you in any sum; and, if —, how much.

A. Yes, sir; he was. Six hundred dollars, interest and all; about seven.

12 Q. State whether you are acquainted with one Cran. Watson. And, if so, did you ever see him at the house of Joseph Hastings in the lifetime of Hastings?

A. I saw him there once. They told me it was Mr. Watson, and that's all I know about it.

Latter part of answer objected to by complainant.

259 13 Q. Have you seen the same man at any time since?

A. Not that I remember of.

14 Q. State the time, with reference to Mr. Hastings' death, that you saw the man when you were told Cran. Watson was at the house of Joseph Hastings.

A. I don't remember. I think it was long in the fall he was there. I think it was the fall before he died.

15 Q. Do you remember the time Mr. Hastings started for the city of Pittsburgh—the last time before his death?

A. I don't remember what time it was.

Cross-examination:

1 Q. What relation were you to Mr. Hastings?

A. Sister-in-law.

2 Q. What relation does Philip Reimond bear to the Hastings?

A. He married Mr. Hastings' daughter.

3 Q. How long have you lived with Philip Reimond?

A. Since Mr. Hastings' death I've been there.

4 Q. Before his death where did you live?

A. I lived at Mr. Hastings'.

5 Q. How long had you lived there?

A. About seven years.

6 Q. Did you know of his buying a farm on which he lived, or did he buy it before you lived with him?

A. He bought it before I went there.

7 Q. Do you know how much he paid for it or how he paid for it?

A. No, sir; I do not.

8 Q. Were you acquainted at all with his business matters?

A. No, sir; I was not.

9 Q. Was any one beside himself, to your knowledge, ac-
260 quainted with his business matters?

A. No, sir; not that I know of.

10 Q. Was he not very closed-mouthed about business?

A. As far as I know.

11 Q. He loaned money for you from time to time, did he not?

A. Yes, sir.

12 Q. Has the money you speak of as being due you from him at the time of his death been paid to you yet?

A. No, sir.

13 Q. Was the money that was due you from him at the time of his death money that he had loaned for you?

A. Yes, sir.

14 Q. Were not the notes of the persons to whom he had loaned that money for you turned over to you after his death?

A. No, sir.

15 Q. Have you never had any of those notes?

A. No, sir.

16 Q. Do you know to whom your money was loaned?

A. Why, Mr. Page Clark hadsome of it, I think; Mr. Heckman had some, and Mr. Trout, I think.

17 Q. Have any of those notes been paid?

A. I don't know whether they paid them or not.

18 Q. Who holds them now?

A. I don't know.

19 Q. Do you remember distinctly when it was that Watson called on Mr. Hastings?

A. I don't remember.

20 Q. Might it not have been during the month of January preceding his death instead of during the fall preceding his death?

A. I don't remember what time, but I think it was in the fall he was there.

261 21 Q. Did you see him at that time?

A. Yes, sir; I saw him at that time; they had told me it was him.

22 Q. Who was he with when you saw him?

A. No person.

23 Q. Did you hear Mr. Hastings say anything to him?

A. I heard him say that as he was going out of the house he was collecting money and sending it to Mr. Dillman.

24 Q. Did he say he was collecting it and sending it or that he was collecting it to send to Dr. Dillman?

A. I understood he was sending it; that's the way I understood it; that's the way he spoke.

25 Q. Did he mention any amount?

A. No, sir, he did not; not in my hearing.

26 Q. How long had he loaned money for you?

A. Well, he loaned money since ever he come out here, whenever I had a little.

27 Q. How much has he ever loaned for you?

A. Well, about ($3,000.00) three thousand dollars, as near as I can make out now.

Re-examination by respondents:

1 Q. How much money did you have in all of your own?

A. I have about three thousand dollars.

2 Q. Do you mean to say that Mr. Hastings loaned this money for you, or that you loaned the money to him?

A. No, sir; he loaned it for me.

3 Q. Who kept your money when it was not loaned out?

A. I kept it myself.

4 Q. Who took the notes for money loaned and counted the money out to the persons borrowing it?

262 A. He done it himself—Mr. Hastings.

5 Q. In whose names were the notes taken?

A. The notes were taken in his name.

6 Q. Who kept the notes after so taken?

A. He kept them.

7 Q. How much cash did you have on hand at the time of his death?

Objected to by complainant.

A. I hade'nt any of any account—a dollar or two.

8 Q. You say he owed you at the time of his death about six or seven hundred dollars. Now, what has become of the other moneys which you say belonged to you?

A. I bought a piece of land with part of it and I loaned some.

9 Q. How long ago did you buy the land & how much did you pay for it?

A. Two years first of April last; paid twenty-one hundred.

10 Q. How long had you the money on hand with which you purchased the land before the purchase was made?

A. I did not have any money on hand at all. I had bought a piece of land before and turned part of it into this other.

11 Q. When did you buy the first piece of land and did you pay for it out of the three thousand dollars that you speak of?

A. Why, the first piece I got was only twenty acres; seven hundred dollars for it; I paid it out of that three thousand; I don't know, it must have been seven years ago I bought the first piece.

12 Q. What other sums of the money did you use for any other purpose before purchasing the second piece of land?

A. I didn't use any.

Recross-examination by complainant:

263 1 Q. How did you pay for the second piece?

A. 'Twas money that mother gave me.

2 Q. Was this besides the three thousand dollars you speak of?

A. No, sir.

3 Q. Then you paid for the second piece partly with the 20 acres you first bought and the balance in money?

A. Yes, sir.

4 Q. What, if anything, did you ever pay Mr. Hastings for loaning your money for you?

A. I worked there. He didn't charge me anything and I diden't charge him anything.

5 Q. You paid nothing for board, did you?

A. No, sir.

6 Q. Did you ever pay any taxes on the money Mr. Hastings loaned for you?

A. No, sir.

Redirect examination by respondents:

1 Q. How did you live in the family of Mr. Hastings, and how long before his death had you lived there?

A. I just lived there the same as it was my own home. Well, I was not there all the time. I was there about eight years.

2 Q. State whether or not you worked during that time as one of the family of Mr. Hastings.

A. Yes, sir.

MARGARET ALEXANDER.

264 GAGE CARLIN, of lawful age, being first duly sworn, deposes and says:

By respondents:

1 Q. State your name, age, occupation, and place of residence.

A. Gage Carlin; thirty-seven; real-estate business; Findlay, Ohio.

2 Q. Are you engaged in any other business except dealing in real estate?

A. I negotiate papers for parties, a little trading—most anything that there is a little money in.

3 Q. State how long you have been engaged in dealing in promissory papers & borrowing and loaning money.

A. Eight or ten years.

4 Q. Read the following averment in complainants' bill: "That is to say, said Dillman sent to said Hastings and said Hastings received from said Dillman, to be loaned out for said Dillman, the following sums of money and the interest thereon, as shown by the following account of said agency," and answer when you have read it.

A. I have read it.

5 Q. Please look at the account and the items therein contained and attached to and filed with complainant's bill, headed Joseph Hastings to Jared Dillman, Dr., and commencing March 10th, 1875, and ending May 21st, 1881, and say what the services of said Hastings would be worth as such agent for receiving, loaning, and managing said moneys in manner as stated in said averment and said account.

Objected to by complainant.

A. Amounts above one thousand, five per ct.; amounts
265 under that, seven and half to ten, according to the size.

6 Q. Do you make the estimate by the year or for the whole managed?

A. Make no difference in a one or a five year loan.

7 Q. What additional sum would it be worth to collect the loan and reloan the money?

Objected to by complainant.

A. Nothing for collecting in and the same commission as before in loaning it; probably a little less commission if reloaned on the same property.

Cross-examination:

1 Q. How long have you been in the loaning business?

A. I've been in the loaning business and negotiating paper in a small way from eight to ten years.

2 Q. Have you loaned any money as agent for any one during that time?

A. Not for foregoing parties, but have for parties about here.

3 Q. For whom?

A. E. T. Dunn, Mrs. Reyder, and others.

4 Q. In what amounts?

A. I don't just recollect what the amounts were.

5 Q. And you charged E. T. Dunn and Mrs. Reyder for your services from seven and half to ten p'r ct. on loans less than a thousand dollars, as I understand it?

A. I can't recollect the exact amount I charged E. T. Dunn and Mrs. Ryder.

6 Q. Is it not a fact that the person borrowing money paid the commission to the agent for the loan?

A. I usually try to get it both ways.

266 7 Q. If, as you say, from 7½ to 10% commission is paid by the lender to the agent on loans less than a thousand dollars on the basis of one, two, or three years' loans—if the person loaned a sum of less than one thousand dollars for one year at 6%, he not only would not receive as much interest as he paid out commissions, but the commissions would exceed the interest by 1½ to 4%, would it not?

Objected to by respondents.

A. It would, I said. I never loaned any at six p'r ct. & charging 7½ to 10% commission. I expect to get from 12 to 20% between the two.

8 Q. Did you ever receive a commission from the person lending the money seven and a half to 10%?

A. I have received as high as 10%.

9 Q. From whom?

A. E. T. Dunn.

10 Q. What interest did the note draw?

A. I can't tell.

11 Q. Do you do a note-brokerage business?

A. Well, now, I furnish different parties in town money whenever they get hard up and need it. Money now—there are three parties who furnish me money to loan.

12 Q. Who are they?

Objected to by respondents.

A. E. T. Dunn is one of them; the other two I don't care to name.

13 Q. Is Mrs. Ryder one?

A. No, sir; I have made loans for her, but she is not one of the parties I speak of here.

14 Q. Is M. D. Shafer one?

267 A. I never loaned a dollar for M. D. Shafer.

15 Q. What rates of interest would you get on loans made by you?

A. Twenty-five dollars on to a hundred and fifty. I get as high as 20 to 40% on 30, 60, and 90 days. I have done most of my business on short-time paper; what we call commercial paper.

Re-examination by respondents:

1 Q. In fixing the value of the services of Mr. Hastings as agent did you base your estimate on the mere act of loaning and managing the fund from 1875 to 1881, as stated in the account shown you?

Objected to by complainant.

A. When I spoke of those commissions of what I would charge if I made the loan that would be the commission charged. I would expect to look after the securities & see that the money was put in a safe place.

E. T. DUNN, of lawful age, being first duly sworn, deposes & says:

1 Q. State your age, name, occupation, and place of residence.

A. E. T. Dunn; age, 45; attorney-at-law; Findlay, O.

2 Q. State whether or not you have been engaged in loaning of money for yourself and others; and, if you have, then for how long and to what extent.

268 A. For over 10 years I have been engaged in loaning money for myself and others; to a very limited extent for myself. For others I have loaned a considerable amount of money; for the last six years it has taken at least the half of my time. I have certainly in the last six years loaned a million of dollars.

3 Q. Read the following averment in complainant's petition—that is to say, "Said Dillman sent to said Hastings and said Hastings received from said Dillman, as agent for said Dillman, to be loaned out for said Dillman, the following sums of money and the interest thereon, as shown by the following account of said agency"—and answer whether you have read it.

A. I have read it.

4 Q. Please look at the account and the items therein contained and attached to and filed with complainant's bill in this action, headed Joseph Hastings to Jared Dillman, Dr., and commencing March 10th, 1875, and ending May 21st, 1881, and say what the services of said Hastings would be worth as such agent for receiving, loaning, and managing said moneys in manner as stated in said averments and said account.

Objected to by complainant.

A. It certainly was worth all the excess of six p'r ct., providing there was no unusual trouble in making the collections. I don't think any good financier could afford to pay more than 6 p'r ct. for loan in this way. It would not be a profitable business at that rate,

and I certainly would not do it. I made this answer on the
269 supposition that Mr. Hastings collected the interest and was chargeable with the collections of the principle.

5 Q. Suppose the interest was collected and kept in the fund, then what rate per cent. on the whole amount at the end of the time, May 21st, 1881, would be a fair compensation for the services of receiving, loaning, collecting, and reinvesting from time to time?

Objected to by complainant.

A. If Mr. Hastings received this money in installments, as shown in the account, and collected the interest semi-annually at ten per ct. and reloaned the interest at 10% from the time he got it, in each case it was worth, in my opinion, at least 5 % per annum of the whole amount.

Cross-examination:

1 Q. How much of the loaning business did you do prior to 1881?

A. Prior to 1881 I loaned for the Northwestern Mutual Life Insurance Co. and others perhaps two hundred thousand dollars.

2 Q. How long prior to 1881?

A. Well, I began very soon after the war. I made a few loans for the Penn Life Insurance Co. in 1867. I think since the year 1870 it has been a part of my business to loan money.

3 Q. For the past six years for whom have you principally loaned money?

270 A. The principal amount of loans I have made in the past six years have been for Philadelphia parties, for a few persons in Boston. The principal parties who have furnished me money, however, have been the Provident Life and Trust Co. of Philadelphia, Northwestern Mutual Life Insurance — of Milwaukee.

4 Q. In what amounts did you loan money for them and at what rates of interest?

A. I believe I never made a loan for a foreign corporation of less than a thousand dollars or more than twenty-four thousand. The rate of interest has been 6 %, with some fluctuations on sums over two thousand dollars. From one to two thousand the average rate has been probably about 6½ %.

5 Q. On these loans so made for foreign corporations what commissions did the foreign corporations pay you for making them?

A. They pay nothing for making the loans. When I collect the interest and principal they pay the usual attorney fees.

6 Q. At the time the loan was made you exact a commission from the person borrowing, do you not?

A. The persons borrowing pay a commission.

7 Q. Such collections of interest or principal as you make from time to time you do it under instructions from and as an attorney for the corporation or person loaning the money, do you not?

A. Yes, sir; I do.

Re-examination by respondents:

271 1 Q. In making these loans spoken of, and after they are made and the securities passed upon and delivered to the lender, have you any further responsibility about the loan?

A. None whatever.

2 Q. If you were required by the lender to take ten p'r c't interest, payable semi-annually, upon the loans would you expect or would the borrower pay you a commission in addition to the interest for obtaining loans?

Objected to.

A. First, I certainly would not receive money in that way, and certainly there has been no time in the last ten years in which any good bondsmen would have paid a commission in getting money at ten p'r c't in Hancock county.

E. T. DUNN.

The witness fee paid by respondents, $2.00.

At this point the further taking of this deposition is adjourned until to-morrow morning at eight-thirty o'clock.

SEPTEMBER SEVENTH, 1887—9.30 o'clock a. m.

The taking of this deposition is resumed pursuant to adjournment, the same parties being present.

W. W. SIDDALL, of lawful age, being first duly sworn, deposes and says as follows:

By respondents:

1 Q. State your name, age, and occupation and place of residence.

A. My name is W. W. Siddall; I am 59 years of age; I have no occupation at present, and I reside — Findlay, Ohio.

272 2 Q. What has been your occupation heretofore?

A. I have for nine years been clerk of court and for four years mayor of the village of Findlay at that time.

3 Q. State whether you were acquainted with Joseph Hastings in his lifetime.

A. I was, personally.

4 Q. State whether you are acquainted with complainant, Jared W. Dillman; and, if so, how long?

A. The first time I knew him personally was two years ago last May; I can't tell exactly.

5 Q. How often have you seen him since, and is the same man to whom you refer now present?

A. I saw him two or three times after the first meeting referred to. The man is now present.

6 Q. State whether you held any conversation with him at the first time you met him as spoken of. At that time did you hear him converse with any other person? And, if so, state fully all the conversation you had or heard and the circumstances that called out

the conversation and the subject-matter about which the conve
tion — had.

Objected to by complainant.

A. I did. I held a conversation at the time first spoken of, a
David Fellers, who keeps a boarding-house on Park avenue, w
present at said conversation. I was at that time making out t
books for assessors. Mr. Fellers was at that time assessor of th
second ward of the village of Findlay. Mr. Dillman's name was n
returned with any of the persons entitled to pay taxes. I was i
273 formed that Dillman had moneys or accounts that shoul
have been listed for taxation. I informed Mr. David Fellers
the assessor, of the fact, who brought Mr. Dillman to my
office, and Mr. Dillman then stated that Hastings had moneys be
longing to him, but they were in such shape that he did not know
whether he would be able to collect anything. The amount he
claimed, he said, to the best of my recollection at this time, was
fifteen or sixteen hundred dollars. I then remarked to Mr. Fellers
that the claim was in such a shape that he ought not to be listed for
taxation.

7 Q. In stating the amount above do you mean to be understood
as stating the amount from your recollection or was the statement
of Dillman's at the time of the amount *was* the best of his recollec-
tion?

Objected to by complainant.

A. It was my recollection.

8 Q. Did not Mr. Dillman at the same time give any reasons why
he could not tell how much was due him from Mr. Hastings?

Objected to by complainant.

A. He did; he said, that is my recollection, that he had sent the
money to him at various times from the army, and that there were
no papers to show the amount except letters, and that, Hastings being
a personal friend of his, he was satisfied that had he lived that all
would have been made right.

9 Q. What, if anything, was said at that time by Mr. Dillman
about these mutual accounts between himself and Mr. Hastings for
moneys sent by him to Hastings and by Hastings to him?

Objected to by complainant.

A. I think that there was something stated to that effect,
274 but am not now able to give any definite answer.

10 Q. From that conversation how much did you under-
stand Dillman was claiming as due from Hastings to him?

Objected to by complainant.

A. As I stated before, my recollection is that it was fifteen or six-
teen hundred dollars, with interest.

Cross-examination:

1 Q. Was that conversation held two years ago last May or one year ago last May?

A. It was one year ago last May.

2 Q. What public position did you hold — that time?

A. I was then mayor of the village.

3 Q. Did you send Fellers as assessor to bring Mr. Dillman to your office?

A. Informed Fellers as assessor that I was informed that Dillman had moneys or accounts to be assessed and Fellers went and brought Dillman to my office, when he made the statement as said above.

4 Q. Did you ask him how much the money of his amounted to that was in the hands of Hastings?

A. I said to him that he was entitled to pay taxes on moneys or accounts, and he then stated that he thought there was fifteen or sixteen hundred dollars due him from Hastings, and that the same was in such a shape that he did not know what he could realize out of it, and that he was here for the purpose of fixing it up.

5 Q. Did you not ask him whether there was fifteen or sixteen hundred dollars due him?

A. I am satisfied I asked him no amount, but asked him if there was not money due him from the estate of Hastings, when
275 he claimed the above amount justly due him.

6 Q. Did he deny his liability to be taxed?

Objected to by respondents.

A. He did not; but could not state the amount that he ought to be taxed on; being in the shape claimed by him, the assessor was unable to place any amount on the tax-list, and he did not.

W. W. SIDDALL.

This witness fee, $2.00, paid by respondents.

JOSEPH S. HICKMAN, of lawful age, being first duly sworn, deposes and says as follows:

1 Q. State your name, age, and occupation and place of residence.

A. Joseph S. Hickman; I am 55 years of age; I am a farmer by occupation; my residence is Portage township, Hancock Co., Ohio.

2 Q. Were you acquainted with Joseph Hastings in his lifetime?

A. Yes, sir.

3 Q. Are you acquainted with Jared W. Dillman, the plaintiff?

A. A short acquaintance with him.

4 Q. Have you had any conversation with Jared W. Dillman in regard to his business transaction with Joseph Hastings? If so, what was it and where was it had?

A. Yes, sir; I can't remember the dates. I think it was in 1886, the last of April *o*f first of May. As well as I can recollect at the

present time, he came to my house. After he made himself
276 acquainted he asked me if I hadn't borrowed some money of Mr. Hastings. I told him that I had, and he asked me when I paid the last money to Mr. Hastings, and I told him that I paid him the last one hundred dollars, I thought, in January, 1886. The answer was, he said, I won't be positive which way he said it, that he had received the money from Mr. Hastings.

5 Q. You say he received the money, in your answer. Who do you refer to?

A. Mr. Dillman.

6 Q. Did Mr. Dillman in that conversation or in any other state to you what amount, if any, Mr. Hasting or his estate was indebted to him?

Objected to by complainant.

A. He did.

7 Q. In referring to the money above stated, the hundred dollars, was there any memorandum or book referred to by Mr. Dillman before stating whether he had received the money or not?

Objected to by complainant.

A. He had a book at my house with the amount of the hundred dollars set down.

8 Q. Did he show it to you?

A. Yes, sir.

9 Q. Did you see where the credit of a hundred dollars was given?

Objected to by complainant.

A. He showed me the book where the one hundred dollars was received. I can't say whether it was credit or what it was for.

Cross-examination:

277 1 Q. Are you not mistaken as to the time of your conversation with Mr. Dillman? Was it not last April or May rather than a year ago last April or May?

A. I guess I am a little mistaken about the time. It was last April or May when he was at my house. That's what's the matter.

2 Q. How much money had you borrowed of Mr. Hastings?

Objected to by respondents.

A. I couldn't tell you exactly. I borrowed several different times of him. I can't exactly state.

3 Q. How much were you owing him in December, 1885?

Objected to by respondents.

A. I couldn't say how much.

4 Q. Did not Mr. Hastings write you or inform you along in December, 1885, that it would be necessary for you to pay the amounts you then owed him as soon as possible because the person for whom he was loaning wanted his money collected in?

Objected to by respondents.

A. In January, when I paid him the hundred dollars, I asked him how soon he would have the balance due on this note I paid a hundred dollars on, and he said he couldn't say at present, & that he would let me know in a few days, and I diden't get any answer from him, and I went to his house to see him, and he was setting upon a sick-chair, & I diden't say anything to him about the money, and after I was there awhile I got up to leave the room to go home, & his daughter, Mr. Reimond's wife, followed me out of the door and told me her father would like to have the rest of the money due on that note, and that Mr. Hastings had got word from the man he owed to wanted the money.

278 5 Q. How long was this after you had paid the hundred dollars?

A. I coulden't say. It wasen't but a few days, though.

6 Q. You paid the hundred dollars January 17th, 1886, did you not?

A. I coulden't say what day it was.

7 Q. To whom did you pay it?

A. I paid it to Mr. Hastings.

8 Q. Where was he?

A. At Mr. Reimond's, this (his) son-in-law.

9 Q. What, if any, receipt did he give you for the money?

A. He just credited on the note himself.

10 Q. Was he up and around and attending to business at this time?

A. Yes, sir; he was.

11 Q. Did Dillman tell you at the conversation at your house that he had received from Mr. Hastings the one hundred dollars you had paid or did he say that he had about that time received from Mr. Hastings seven hundred dollars, and that the one hundred was probably a part of it?

A. I diden't understand it that way. I understood him to say he received the hundred dollars and not any more.

12 Q. What kind of a book was it Mr. Dillman had with him at that time?

A. I coulden't really tell you. It was a small book. He carried some papers in it.

13 Q. Was it a book he carried in his pocket?

A. I suppose he did. He took it out of his pocket.

14 Q. Did he show you the account in the book?

279 A. This account that he showed me—I won't be positive whether it was writ in that book or not, or that it was on a paper he took out of the book that he showed me the account on. I took the paper then and looked over it, and I seen the amount of one hundred dollars on the paper. There was a good many things on the paper which I paid no attention to.

15 Q. Would you be able now to recognize that paper should you see it?

A. I don't know whether I would or not.

16 Q. Don't you know that that paper was a copy of the inventory of notes, etc., belonging to the estate of Joseph Hastings, filed in the probate court?

A. No, sir; I don't.

17 Q. Look at the paper I hand you, and especially at the item marked fifteen thereon, and tell me, if you can, whether it is the paper Mr. Dillman showed you at the time.

A. Well, he showed me this paper, and it strikes me he showed me another account. I won't be positive.

18 Q. You mean you won't be positive to the other account on this paper?

A. The other account I know. He showed me this paper.

19 Q. Was the hundred dollars an item he showed you the one hundred dollars specified on this paper?

Objected to by respondents.

A. Yes, sir.

20 Q. Will you hand this paper to the notary and request him to attach it to your deposition?

A. I don't see anything wrong about it.

The paper is handed in and marked Exhibit "A" on defense, Louis A. Carabin, notary public, Hancock Co., Ohio.

280 Examination, redirect:

1 Q. Are you positive the paper marked Exhibit "A" on defense is the paper that was handed to you by Mr. Dillman at the time of your conversation spoken of?

A. Yes, sir; I think so.

2 Q. Did he at the same time show you a little book with a hundred-dollar credit in?

A. I think he did; I won't be positive.

3 Q. Did he show you other papers at the time of the conversation referred to?

A. Yes, sir.

4 Q. Was your conversation with Mr. Dillman lengthy or otherwise?

A. Our conversation was short; I suppose he was there a couple of hours.

JOSEPH S. HICKMAN.

This witness' fees, 2.00, paid by respondents.

LOUIS A. CARABIN, *N. P.*

GEORGE L. SHECKLER, of lawful age, being first duly sworn, deposes and says as follows:

1 Q. State your name, age, occupation, and place of residence.

A. George L. Sheckler; sixty past; well, I'm a farmer & drover & *drover;* Dudley township, Hardin Co., Ohio.

2 Q. Were you acquainted with Joseph Hastings in his lifetime?

A. I was.

3 Q. How long had you been acquainted with him?

A. From my early boyhood up to his death.

4 Q. Where did he reside and where did you reside during your first acquaintance? State fully all about it.

281 A. We both resided in Richland Co., Ohio—him in Monroe township and me in Washington township.

5 Q. At what time did Mr. Hastings leave Richland county, and where did he move to?

A. If my memory be correct it was in 1871 or 1872. I don't remember just exactly. He moved to Hancock county, Ohio.

6 Q. Did you continue to reside in Richland county?

A. I then lived in Licking county, Ohio. I came to Hardin county in '71.

7 Q. You have lived there ever since, have you?

A. Yes, sir.

8 Q. When Joseph Hastings lived in Richland county what business, if any, was he engaged in?

A. He was a farmer.

9 Q. Did he live upon his own farm?

A. He did.

10 Q. What was the size of his farm there?

A. One hundred and sixty acres.

11 Q. What became of it? Did he sell it when he moved to Hancock county?

A. He sold it before he moved.

12 Q. For what price?

Objected to by complainant.

A. If my memory be correct eighty dollars or thereabouts. Eighty dollars an acre is what I mean.

13 Q. Did you visit Mr. Hastings after you moved to Hancock county?

A. I did.

14 Q. What were his habits of living? Was he a plain, saving man or expensive?

282 A. He was a very plain and saving man in his habits—in his way of living.

15 Q. Were you to the funeral of Joseph Hastings?

A. I was.

16 Q. Are you acquainted with the complainant in this action, and did you meet him at the funeral?

A. I met him the first time I ever met him on that occasion.

17 Q. Did you have a conversation with him?

A. I did.

18 Q. What was it about?

Objected to by complainant.

A. I asked him if the estate was indebted to him and how much. He said three to four thousand dollars.

19 Q. Who was present other than yourself and Mr. Dillman, if any one, at this conversation referred to?

A. Well, there were two other parties present. I remember well John Hastings and Washington Hastings, his uncle, was in the room at the time.

20 Q. Where was it at and when was it you had the conversation spoken of?

A. It was at Hastings' house; I believe the day after the funeral.

21 Q. How did the conversation between you and Mr. Dillman occur? What was said?

Objected to by complainant.

A. From this fact—Dillman was urging John Hastings to deliver all the notes and accounts. He stated he wished to look over them.

22 Q. Did Mr. Dillman say why he wanted to look over the notes and accounts?

Objected to by complainant.

283 —. He did.

23 Q. For what purpose?

Objected to by complainant.

A. He said the estate was owing him.

24 Q. Was that all?

A. That was what brought in the enquiry.

25 Q. At that time had there been an administrator or an executor appointed over the estate of Joseph Hastings?

A. There was none that any one seems to know of.

Cross-examination:

1 Q. When did you come from Hardin county?

A. About three o'clock to-day.

2 Q. Who came with you?

A. John Hastings.

3 Q. When did John Hastings go to Hardin county for you?

A. He came down there yesterday evening about sundown.

4 Q. You have talked this matter over with him considerably in the meantime, have you not?

A. When I got on the train I asked him whether it was a year or two years ago Mr. Hastings died.

5 Q. That was the only thing in reference to this suit that was mentioned between you, was it?

A. It is.

6 Q. Did you know for what purpose John Hastings wanted you to come here?

A. I did.

7 Q. How did you know that if the matter had not been mentioned between you?

A. Well, yes; that wouldn't be a fair question. I want to

284 state the time he came. He asked me if I could leave to-

morrow; he wanted to use me as a witness. I said I could leave just as well as not, if necessary.

8 Q. That was all the conversation between you then in regard to the suit?

A. It was, with the exception to the conversation on the train.

9 Q. You are not related in any way to the Hastings, are you?

A. I am not.

10 Q. Did he sell his farm in Richland county as an entirety or in parcels?

A. In parcels, to different persons.

11 Q. And he got for it eighty dollars an acre throughout, or twelve thousand eight hundred dollars?

A. No; as I stated before — my memory serves me right, it was in and about eighty dollars an acre, and didn't know that the last part was sold for that; that's the reason I gave it in or about.

12 Q. Are you positive that any of it was sold for as much as eighty dollars?

A. If my memory is correct John Mitchel told me he paid eighty dollars an acre for his; that would include the part he bought.

13 Q. Would you know, should you see it, the handwriting of Mr. Mitchel?

A. I think not; I never had any correspondence with him; I don't think I would.

14 Q. Do you know whether this land in Richland county that he sold he received cash for?

A. I think not; I think it was sold partially on time; can't tell how long time.

15 Q. Is it not a fact that the parcel of the farm that
285 Mitchel bought of Hastings contained one hundred and one acres; that he paid for it sixty-nine hundred dollars?

A. I could not answer that question only as he, John Mitchel, stated to me at the time the amount.

16 Q. Do you know how much of a farm Mr. Hastings had in Hancock county at the time of his death?

A. I don't, because he told me the number in each piece, but I never figured it up. I recollect one piece was one hundred and sixty acres, and that he was to give to John.

17 Q. Do you know how many other pieces he owned?

A. There were two other pieces besides this one.

18 Q. Were those other parcels larger or smaller than the one mentioned of one hundred and sixty acres?

A. If my memory be correct, they were both smaller.

19 Q. Do you know how much he paid for the Hancock county land?

A. He did tell me, but I have no recollection, so I will have to answer no.

20 Q. Was Mr. Hastings a farmer in Richland county?

A. He was.

21 Q. And in Hancock county?

A. So far as I know he was on the farm and farming each time I visited him.

22 Q. You were owing him some money on a note at the time of his death, were you not?

A. Yes, sir.

23 Q. At the time you speak of—the day after the funeral—were the notes left by Mr. Hastings shown?

A. Not to my knowledge.

24 Q. There was a list of them on the table, were they not?

286 A. If there was I did not see them.

25 Q. How long were you there at that time?

A. I came on Saturday night, and I am not positive whether I left Monday night or Tuesday night; I don't know which.

26 Q. Did you have any other conversation with Mr. Dillman than the one you speak of in your direct examination in reference to the indebtedness of the estate to him?

A. None, only on that one occasion. So far as asking the amount that Hastings owed him I have no recollection of it coming up the second time.

27 Q. Who carried on the conversation?

A. When the amount was asked Dillman and I did.

28 Q. Did you ask him whether the estate owed him three or four thousand dollars?

A. No; I asked him if the estate owed him. He said yes. Then I asked him how much. He said three or four thousand dollars.

29 Q. What did he say he wanted to do with the notes and accounts?

A. He wanted to overhall them to see how they compared either with his accounts or memoranda; I don't remember which.

30 Q. Where did he want to do that?

A. There—at Hastings' house.

31 Q. What did they tell him?

A. John showed a disposition to go and get them, and I said, Hold on; there must be an executor some place; that no one had a right to look over them but he who had legal authority to do so.

32 Q. Was the intention to look over the notes together?

287 A. Can't tell what the intention was.

At this point the further taking of this deposition is adjourned until to-morrow morning at eight o'clock.

SEPTEMBER 8TH, 1887—eight-thirty o'clock.

In pursuant to the above adjournment the farther taking of these depositions is resumed:

33 Q. Do you remember whether the Richland county farm was all in one parcel?

A. It was; full quarter section.

34 Q. The part sold to Mitchel was the part with the buildings on it, was it not?

A. I think so.

35 Q. The other part of the farm lay largely in the hills, did it not?

A. Can't answer the question. I never seen the established line since it was established in those parcels.

36 Q. Part of the farm was in the hills, was it not?

A. I call it a hill farm, with the exception of a brook — runs through it—what lies along the brook.

37 Q. Do you know anything about what Mr. Hastings got for that farm except what John Mitchel told you?

A. I have been told what the balance sold for; at the time made an estimate myself in my mind, and found it to be about eighty dollars an acre—somewhere about there.

38 Q. Who gave your your information on which you base your estimate?

A. Squire Hastings, the man who sold the land.

288 Redirect examination:

1 Q. What amount of personal property and moneys and securities had Mr. Hastings over and above the moneys arising on the sale of his land when he left Richland county?

A. I'll have to give that from circumstance-, notes, and moneys I knew he had in his possession—that is, previous to his sales I have the knowledge to know that he had from ten to twelves thousand dollars at that time.

2 Q. What do you mean when you say in your answer to your last question "had in his possession"? Do you mean to be understood that it was notes and moneys in his possession belonging to others or notes and moneys belonging to himself?

A. To himself is the way I wish to answer that. That's the way I understood it.

3 Q. Were you acquainted with the family of Alexanders in Richland Co.?

A. Well acquainted with them for years.

4 Q. Joseph Hastings' deceased wife was a daughter of the family of Alexander, was she not?

A. She was.

5 Q. Are you able to state what estate, if any, she received and brought to Joseph Hastings?

A. The exact amount I don't know.

6 Q. Was it a large or small amount, as your best impression of that?

Objected to by complainant.

A. My impression is it amounted to a few thousand dollars.

7 Q. Are you able to state what became of Mrs. Hastings'
289 money, whether it went into the real estate purchased in this county?

(Objected to by complainant.)

A. Mr. Hastings stated to me that it did. He said he put it into that one hundred and sixty acres that he had bought for his son John.

Recross-examination:

1 Q. Do you know how much he paid for the one hundred and sixty acres?

A. He did tell me, to the dollar. I don't remember now, it was a good while ago.

2 Q. When living in Richland county, was not Mr. Hastings executor of several estates?

A. He was.

3 Q. Did he not loan, as executor, considerable money from time to time?

A. He did loan some money; the reason I know, he showed me several notes he said were not his—belonged to estates.

GEO. L. SHECKLER.

This witness' fees, $2.00, paid by respondents.

L. A. CARABIN, *N. P.*

WILLIAM MARVIN, of lawful age, being first duly sworn, deposes and says as follows:

1 Q. State your name, age, and occupation and place of residence.

A. My name is William Marion; I am fifty-eight years of age; business man; Findlay, Hancock Co., Ohio.

2 Q. Were you acquainted with Joseph Hastings in his lifetime?

A. Yes, sir.

3 Q. When did you become acquainted with him?

290 A. It was in the winter of '71—late in the fall.

4 Q. Are you acquainted with the lands that he owned at the time of his death, especially the one hundred and sixty acres upon which John Hastings, son of Joseph Hastings, resides?

A. Yes, sir; I mean the land that was bought from the Marvins, my father, George, and John. The land belonged to the three, but whether they all joined in the deed I do not know.

5 Q. State, if you know, who sold the land to Joseph Hastings and who did the business connected with the sale and purchase of it.

A. I did.

6 Q. What was the price the land sold for, and how was it paid for by Mr. Hastings?

A. I don't recollect exactly the price, but he paid cash all down; there were no notes given. The amount of money he paid down was fifty-seven hundred and fourteen dollars.

7 Q. When was it that the sale and purchase was made?

A. It was made in the winter of '71 going out, or coming in of '72; it was either just before or after the holidays.

Cross-examination:

1 Q. How much land did Mr. Hastings own in Hancock county at the time of his death?

A. I don't know.

2 Q. How many farms did he own?

A. I don't know.

3 Q. Do you know any farm that he owned in Hancock county other than this one of a hundred and sixty acres?

291 A. No; I don't.

4 Q. Did you ever have any transactions with Mr. Hastings other than relating to the sale of one hundred and sixty acres?

A. No, sir; I never had no other dealing.

5 Q. Were you acqainted at all with his business matters?

A. I can't say that I was, yet I was well acquainted with the man personally.

6 Q. Is your mind perfectly clear about the sale of the one hundred and sixty?

A. My mind is clear as to the amount of money he paid.

7 Q. When did he pay that amount?

A. He paid it on the purchase of the deed. They turned him over the deed & he gave me the money.

8 Q. How long after you first met him in the winter of 1871 did he pay you the money?

A. Probably a week or ten days. We had to get an abstract and the deed made out.

9 Q. Was there not a contract of sale made up and signed providing for the payment of the purchase-money in installments?

A. I wrote a contract for the sale of the place. Now, I don't know whether there was any claims on the place or not, but he paid me fifty-seven hundred and fourteen dollars in cash money.

10 Q. Is it not a fact that the contract provided for deferred payments of the purchase price, and after that contract was signed he discounted the face of the deferred payments and paid you their face less the discount?

A. I couldn't say; it was so long ago.

292 11 Q. Don't you remember that at the final settlement there was more or less dissatisfaction on your part or on the part of the persons for whom you sold the farm at his discounting the payments?

A. No; the trade went off all satisfactory; there was no dissatisfaction on either side.

Redirect examination:

1 Q. The hundred and sixty acres you have been speaking of and which you sold to Mr. Hastings is situated in what township and where?

A. I think it is in Findlay township, in the northwest quarter, in Hancock county, Ohio.

WM. MARVIN.

This witness' fee paid by respondent, 2.00.

L. H. CARABIN, *N. P.*

JOHN C. FRITCH, of lawful age, being first duly sworn, deposes and says:

1 Q. State your name, age, occupation, and place of residence.

A. My name is John C. Fritch; I am thirty years of age; I am

a physician by occupation, and my place of residence is Findlay, Ohio.

2 Q. Were you acquainted with Joseph Hastings in his lifetime?

A. Yes, sir.

3 Q. How long were you acquainted with him before his death?

A. Eleven years.

4 Q. Were you called upon to treat him professionally at any time during your acquaintance?

A. I was.

293 —. When were you first called & for how long did you treat him?

A. I have been his physician for ten years, and I think the first I was called to treat him was in the winter of '79 or '80. He laid sick then for several weeks with inflammatory rheumatism.

6 Q. What were his habits of living; was he plain & unexpensive or was he otherwise?

A. He was a man of frugal habits, very economical; paid his bills very promptly; usually expected & asked the discount for prompt payment.

7 Q. How was he about his house—his home?

A. They had what was necessary; no luxuries that I ever saw.

8 Q. How was his home to other farmers around; was it in keeping with his neighbors?

A. With those with whom I was acquainted I should say it was about the same.

9 Q. The latter years of his life, what was the condition of his health?

A. He never was a well man after having that attack of rheumatism.

10 Q. Was he afflicted the latter years of his life in any other way than the rheumatism you speak of?

A. He was.

11 Q. In what way? Please describe it fully.

A. On Dec. 11th, 1884, he was about to start to New York city. While in North Findlay—I think he was on his way to the depot—he had a stroke of paralysis affecting the left side of his face and his right arm and leg. I treated him, going to see him occasion-

294 ally, at various times, till the 27th May, 1885. I prescribed for him at intervals till the 18th day of January, 1886, and I was called to see him, at which time he was suffering with heart-trouble, had swelling of the limbs and hands, difficult breathing, so that he passed most of his time, day and night, sitting in a chair; could not lie down very often. His symptoms grew gradually worse till 11th of February, when he had another paralytic stroke, dying the following day, Feb'y 12th, 1886.

12 Q. At the time he received his first paralytic stroke, Dec. 11th, 1884, up till January, 1886, what was his condition; was he able to transact business correctly during this period or any portion of the time; if so, what portion of the time?

Objected to by complainant.

A. I should say after May 27th up till the time he went to Indiana he was capable of transaction of business. I saw him the week after he got back from Indiana; did not see him professionally again till January 18th, 1886.

13 Q. To refresh your recollection, was it not in September, 1885, when he took the trip to Indiana you speak of?

A. It was in the fall some time; can't swear as to the month.

14 Q. Will you take Exhibits "I" & "J," signed H. F. Burket, notary public, filed in this action, and examine them and say whether or not Mr. Hastings at the dates of these letters was
295 able to write and transact the business matters mentioned in them.

Objected to by complainant.

A. Can't say.

15 Q. What was Mr. Hastings' ability to write during the time you did visit him, between the months of December, '84, up to your last visit for the year 1885?

A. It was a long time before he could write at all, his arm being partially paralyzed; cannot give dates.

16 Q. Are you able to say that he regained use of his arm so as to do any amount of writing and figuring during the month of Dec., 1885?

A. I am not.

Cross-examination:

1 Q. You say after May 27th, 1885, you prescribed for him at intervals until you were called to his house, Jan'y 18th, 1886. Did he come to your office during that time to be prescribed for, or did you go to his house?

A. He came to my office.

2 Q. How long previous to Jan'y 18th, 1886, did you prescribe for him?

A. August the 27th, 1885, was the only prescription between July 11th, 1885, & Jan'y 18th, 1886, that I have any record of. However, the week after he got back from Indiana he was in my office and I gave him a prescription to the drug store, for which I made no charge.

3 Q. Do you remember of his going to Pittsburgh in December, 1885?

296 A. I remember of his going to Pittsburgh; cannot swear to the time.

4 Q. Do you remember whether it was shortly before his last illness?

A. I do not.

JNO. C. FRITCH.

This witness' fees paid by respondents—2.00.

At this point the further taking of this deposition is adjourned until to-morrow morning at eight thirty.

SEPT. 9TH, 1887.

On further consideration, by agreement between opposing counsels, the further taking of depositions has ceased for the present.

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant, *vs.* JOHN F. HASTINGS, PHILIP J. REIMOND, Administrators of the Estate of Joseph Hastings, Deceased.	In Chancery. Case 529.

It is agreed by and between the parties to this suit that the original papers relating to the estate of James Teatsorth, deceased, in the probate court of Hancock Co., Ohio, and the inventory filed
297 by the appraisers appointed by the said probate court of Hancock county in the matter of the estate of Joseph Hastings, deceased, on file in said probate court, may be used on the hearing of this cause by either party, subject to all questions of relevancy or competency.

The solicitors for the respondents herein agree to bring with them to the hearing of this cause the said papers, and especially the account of the administrator of the estate of James Teatsorth, filed in said probate court November 20th, 1882, and the account of said administrator, filed in said court April 11th, 1884, and the vouchers filed therewith, and also the inventory filed in the matter of the estate of Joseph Hastings, deceased, March 6, 1886; & the respondents have the right to take said papers from the files of this court after this cause is disposed of — return them to the said probate court of Hancock county, Ohio.

Findlay, Ohio, Sept. 8th, 1887.

BAKER, SMITH & BAKER,
Solic'r- for Complainant.
WHITELY & BOPE &
M. D. SHAFER,
Sol'r- for Defendants.

298 EXHIBIT "A" ON DEFENCE. Louis A. Carabin, Notary Public.

Appraisement March 2, '86.

Appraisers: R. M. Watson, D. R. Stoker, F. F. Bigelow.

Name.	Date drawn.	When due.	Face value.	Payments.		Am't due.	Collectable.
Robert Wells, M.....	Aug. 2, 1884	Aug. 2, 1886	$803 85	Dec. 18, '85	$200 00	$705 40	705 40
Jno. S. Trout, N.....	Aug. 17, '85	Aug. 17, '86	200 00	.....	.....	208 67	208 67
Jno. S. Trout, N.....	Nov. 14, '84	Nov. 14, '86	1,091 85	.....	.....	1,207 49	1,207 49
Chas. H Bigelow, N....	June 15, '82	Dec. 15, '82	100 00	.....	.....	129 71	129 71
Adam Reimund, N ..	June 29, '83	Oct. 29, '83	200 00	Sept. 23, '85 June 1, '84	3 00 20 00	219 10	219 10
David Priest, N	Sept. 30, '83	Sept. 30, '84	100 00	.....	.....	120 53	120 53
David Priest, N.....	June 30, '83	June 30, '84	50	.....	.....	60 69	60 69
J. A. Ferrell, M.....	July 11, '84	July 11, '85	300 00	Jan'y 11, '85	24 00	315 40	315 40
Spencer Heins.....	Contract papers of	given to B. J. H.	F. Coon.	Found among the		75 00	Doubtful.
Buck, Reimund & Langferry, N.	Feb'y 19, '83	Aug. 19, '83	200 00	.....	.....	248 57	248 57
Jno. F. Furgeson, N...	June 4, '81	June 4, '82	50 00	Dec. 11, '84	10 00	69 07	69 07
J. S. Hickman, M.	May 7, '81	May 7, '82	650 00	May 7, '84 May 6, '82	52 00 52 00		
		Int. Int. paid	paid to in full to	Nov. 15, '84 Nov. 15, '85	52 00	665 40	665 40
J. S. Hickman, M.....	Nov. 15, '84	Nov. 15, '85	327 60	Nov. 15, 85 " '85 Jan'y 17, '86	26 20 35 00 100 00	198 50	198 50
Rebecca Hastings, N.	Dec. 27, '82	Dec. 27, '85	500 00	Dec. 29, '84 Jan'y 1, '84	100 100	458 16	458 16
Robert H. Chase, N...	Dec. 8, '82	Dec. 8, '84	140 00	Dec. 8, '84	31 25	131 78	131 71
George D. Chase, M ...	Aug. 31, '80	Aug. 31, '81	200 00	Aug. 31, '84 Aug. 31, '81	51 94 16 00	224 65	224 65
Justin Chase, N.	Dec. 19, '79	Dec. 19, '80	671 00	May 13, '81 Aug. 30, '80 June 31, '82 Jan'y 17, '83 Dec. 14, '84	108 00 100 00 20 00 100 00 50 00	338 63	338 63
Geo. D. Chase, N.....	Oct. 9, '79	Oct. 9, '80	204 00	Oct. 9, '84 Oct. 9, '81	52 97 42 00	226 80	226 80
Harlow P. Clark, M.....	Nov. 25, '84	Nov. 25, '86	800 00	.....	.....	882 62	882 62
M. D. Shafer, N.....	July 21, '85	Dec. 21, '85	200 00	.....	.....	209 82	209 82
C. F. Granel, N.....	May 20, '81	May 20, '82	76 83	Nov. 29, '82	1 50	104 72	104 72
Jacob Mitchel, N.....	May 3, '84	May 3, '85	100 00	.....	.....	114 66	114 66
Eli King, N.....	May 3, '84	May 3, '85 Int.	500 00 paid to	May 2, '85 Jan'y 8, '82	40 00	533 33 (250)	533 33
Em'l Smith, N.....	Jan'y 8, '78	Jan'y 8, '79	200 00	Nov. 5, '84	7 00	242 78	242 78
Wm. Blue, N.....	June 19, '79	Apr. 1, '80	50 00	Indorsements	39 00	33 81	Doubtful.
Geo. S. Shackly, N.....	Oct. 1, '81	Oct. 1, '82	300 00	.....	.....	406 00	406 00
Geo. S. Shackly, N.....	Apr. 9, '78	Mar. 25, '79	204 00	Mar. 31, '79	130 00	140 27	140 27
Jno. F. Hastings, N....	Sept. 1, '82	Sept. 1, '83	83 00	Oct. 20, '83	69 00	22 32	22 32
Jno. F. Hastings, N....	Sept. 1, '82	Sept. 1, '84	84 00	.....	.....	101 64	101 64

299 STATE OF OHIO, *Hancock Co.*

In the Circuit Court of the United States, Northern District, Western Division, Ohio.

JARED W. DILLMAN, Complainant,
vs.
JOHN F. HASTINGS & PHILIP J. REIMOND, Administrators of Joseph Hastings, Deceased, Respondents.

Case No. 529. In Chancery.

The complainant will take notice that on Tuesday, the sixth day of September, A. D. 1887, the respondents above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the court-room of the court of common

pleas, in the city of Findlay, in the county of Hancock, in the State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day between the same hours until they are completed.

WHITELY & BOPE,
Sol's & Attorney- for Respondents.

Baker, Smith & Baker, solicitors for complainant.

In the Circuit Court of the United States, Northern District, Western Division —.

JARED W. DILLMAN
against
JOHN F. HASTING & PHILIP REIMOND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents. } Case 529. In Chancery.

It is agreed by and between the parties to this action that testimony to be used by the defendants herein may be taken before any notary public and at any time and place agreed upon
300 by the solicitors of said parties in — upon notice given, as provided in section 5273 of the Revised Statutes of Ohio, to the solicitor of said plaintiff; and it is further agreed that all depositions so taken and verified by the certificate and seal of said officer may be filed in the action and used on the trial in the same manner and subject to the same exceptions for incompetency or inaccuracy as if the same had been taken under the rules and orders of said circuit court and before an officer of said court.

BAKER, SMITH & BAKER,
Sol's for Comp.
WHITELY & BOPE,
Sol's for Resp'd't-.

In the Circuit Court of the United States, Northern District, Western Division of Ohio.

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS & PHILIP J. REIMOND, Administrators of Joseph Hastings, Deceased, Respondents. } Case No. 529.

It is agreed by and between the parties to this action and for the purposes of the trial thereof that the treasurer's receipts hereto attached are the genuine receipts of the county treasurer of Hancock county for taxes paid said treasurer on account of averments made upon said treasurer's duplicates by Joseph Hastings in his lifetime, and that said sums paid and the time of payment as shown by said receipts are as follows:

1876, Nov., A. D. 1876,	1st	rec't	25 44
" Apr. 23d, 1877,	2	"	22 68
187–, Dec. 10, 1877,	1	"	26 81

301

1877, May 31st, 1878,	2nd		24 06
1878, Jan'y 10, 1879,	1		28 80
" May 29, 1879,	2		28 80
1879, Dec. 8, 1879,	1		29 85
" July 5, 1880,	2		26 85
1880, Dec. 3, 1880,	1		34 39
" July 11, 1881,	2		33 11
1881, Jan'y 22, 1882,	1		33 78
" July 13, 1882,	2		30 28
1882, " 19, 1883,	–nd		23 80
1882,	Final installment marked p'd in duplicate not attached. Df. can find no rec'pt.		24 75
1883, Dec. 29, 1883,	1		27 64
" June 26, 1884,	2		24 28
1884, Jan'y 1, 1885,	1		22 79
1884, July 6, 1885,	–nd		19 21
1885, Dec. 19, 1885,	1		22 40

And it is further agreed that the truth of the facts in said tax receipts contained—that is, as to dates, amounts averred on of taxes paid—and that the signatures of the different treasurers are genuine, and that said taxes were paid by said Joseph Hastings is admitted.

BAKER, SMITH & BAKER,
Sol's for Compl'nt.

WHITELY & BOPE & M. D. SHAFER,
Sol's for Defend'ts.

THE STATE OF OHIO, }
Lucas County, } *ss:*

I, Louis A. Carrabin, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Margaret Alexander, Gage Carlin, E. T. Dunn, W. D. Siddall, Joseph S. Hickman, George L. Sheckler, William Marvin, John C. Fritch were by me severally sworn to testify
302 the truth, the whole truth, and nothing but the truth, and the depositions by them respectively subscribed as above set forth were reduced to writing by me, I being a proper person and not interested in the action, in the presence of the witnesses respectively, and were subscribed by said witnesses in my presence, and were taken at the time and place in the annexed notice specified and continued from day to day, as above set forth.

I do further certify that I am not a relative or attorney of either party or otherwise interested in the event of this action.

In witness whereof I have hereunto set my hand and seal of office this ninth day of September, A. D. 1887.

[SEAL.]

LOUIS A. CARABIN,
Notary Public, Hancock County, Ohio.

303 And afterwards, to wit, on the 7th day of October, 1887, the following depositions were filed on behalf of defendants, viz:

THE STATE OF OHIO, } ss:
Lucas County, }

In the Circuit Court of the United States, Northern District, Western Division of Ohio.

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS & PHILIP REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.

The complainant will take notice that on *Findlay*, the 4th day of Oct., A. D. 1887, the above-named respondents will take the deposition of George W. Hastings — sundry witnesses, to be used as evidence on the trial of the above-entitled cause, at the office of Baker, Smith & Baker, in the city of Toledo, county of Lucas, and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day between the same hours until they are completed.

WHITELEY, BOPE & M. D. SHAFER,
Attorney- for Respondents.

I acknowledge service of the above notice by copy this 4th day of Oct., 1889.

BAKER, SMITH & BAKER,
Sol's for Compl.

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS and PHILIP REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents.
In Chancery. Case No. 529.

304 In the Circuit Court of the United States, Northern District, Western Division of Ohio.

It is agreed by and between the parties to this action that, notwithstanding the order made August 22, 1887, by his honor Judge Welker, requiring respondents to take and file their testimony in the action by Sept. 20, 1887, the said respondents may take the depositions of George W. Hastings before any notary public or other competent officer in Toledo, Ohio, commencing on Tuesday, Oct. 4th, 1887, and continued and closed with all convenient speed.

And it is further agreed that said depositions so taken may be filed by said respondents in the action and, notwithstanding said order or other rule of court, may be used as testimony for respondents upon the trial of the action upon the same terms as their other

depositions filed, subject to incompetency and inac-uracy of testimony contained therein.

BAKER, SMITH & BAKER, *Sol's for Compl.*
WHITELY, BOPE & M. D. SHAFER,
Att'y- for Resp'd'ts.

Depositions of witnesses taken in an action pending in the circuit court of the United States, northern district, western division of Ohio, wherein Jared W. Dillman is the complainant and John F. Hastings and Philip Reimund, administrators of the estate of Joseph Hastings, deceased, respondents, in behalf of the respondents.

Mr. R. H. Baker being present, representing the complainant, and Mr. M. D. Shafer being present, representing the respondents.

GEORGE W. HASTINGS, Kosciusko county, Indiana, of lawful age, being duly sworn by me, as hereinafter certified, deposes as follows:

1 Q. State your name, age, and place of residence.

A. George W. Hastings; age, sixty-six; Kosciusko county, Indiana.

305 2 Q. What relation, if any, do you bear to Joseph Hastings, deceased?

A. Brother.

3 Q. Were you acquainted with his financial ability about the time you moved to Hancock Co. from Richland Co., Ohio?

A. Not fully, but partially.

4 Q. Do you know what amount of personal property, moneys, and lands he had when he moved to Hancock Co. from Richland? If so, state, as near as you can, what knowledge you have.

A. I can't give it in full because I don't know he had money enough to pay $8,000 down on the farm. I know to the best of my knowledge. Some time previous to his buying the farm I know of him having $5,000 or $6,000 in Indiana.

5 Q. When was it he had the money in Indiana?

A. Not less than sixteen years ago.

6 Q. Did this money that you speak of him having in Indiana arise from the sale of his Richland Co. land or otherwise?

A. He had that money, a large proportion of it, a long time before he sold that land. I think I collected about $1,700 of that money sixteen years ago.

7 Q. Did you visit your brother while he lived in Richland Co.?

A. Not very often.

8 Q. How often did you visit him there?

A. I couldn't recollect the number of times I visited him, but I recollect at one time I did not visit him for the space of 20 years. Since that I have visited him oftener; perhaps three or four times last twenty years.

9 Q. Did your brother, Joseph Hastings, visit you at your home in Indiana?

A. He used to visit about once in two years; lately he has visited me more often.

306 10 Q. Were you sufficiently acquainted with your brother, Joseph Hastings', financial condition to state in round numbers what he was worth at the time he moved to Hancock Co. from Richland Co.?

A. Well, to take into consideration his real estate and what money he had, he must have been worth in the neighborhood of $25,000 at the time he moved to Hancock Co. from Richland Co.

11 Q. Your brother died at what time?

A. In March, 1886.

12 Q. Were you present at your brother's last illness and at the funeral?

A. I was.

13 Q. Were you present before he died?

A. I was.

14 Q. Was the complainant, Jared W. Dillman, there?

A. He was.

15 Q. Was he there before your brother died?

A. He was.

16 Q. Did he make known to you or any of the family, that you know of, of having a claim against your brother's estate before his death?

Objected to by Mr. Baker.

A. To the best of my recollection, he did.

17 Q. Were you present directly after the burial of your brother, when George Shackler and the complainant had a conversation in reference to the complainant wanting to see the papers of your brother; and, if so, what was said in that conversation by the complainant?

A. There was a conversation took place. I think that Mr. Dillman remarked that he ought to see them or should see them; anyway, that is what it amounted to. Mr. Shackler asked him if my brother was owing him anything or indebted to him. Mr. Dillman replied that he was. I can't say whether there was any account. My recollection is that he claimed a small amount from my brother, not to exceed $4,000 and not less than $2,000.

307 18 Q. What, if anything, was said by the complainant in that conversation about there being a mutual account existing between himself and the deceased, Joseph Hastings?

A. I do not remember the word mutual occur-ing. He merely conveyed the idea of an unsettled account owing him.

19 Q. An unsettled account between whom?

A. Between Mr. Dillman and my brother.

20 Q. What, if anything, did the complainant say about not being able to give the exact amount of his account until he could see your brother's papers and books or either?

A. Well, he said he could not make out his account until he saw them; that is the way I understood him. He claimed it was necessary for him to see those papers in order to make out his account.

Mr. Shackler replied that he should not have recourse to those papers until they had been in the hands of the administrators.

21 Q. Did Mr. Shackler say should not or ought not?

A. I cannot state which.

Cross-examined by Mr. BAKER:

1 Q. How long have you lived where you now live, in Indiana?

A. I came to the State of Indiana in 1848. Since 1868 I have lived there continuously.

2 Q. How often from 1848 until Mr. Joseph Hastings moved to Hancock Co. did you visit him in Richland Co.?

A. Space about 20 years. I did not visit him at all up to the time he moved to Hancock Co. I might have visited him three or four times.

3 Q. After he moved to Hancock how many times did you visit him before his death?

A. I could not tell you; might have called on him three or four times.

4 Q. How many times did Mr. Joseph Hastings visit you in Indiana?

308 A. Well, I could not tell you. He used to come out there about once in two years. The last two or three years before his death he came oftener.

5 Q. Did you see him about the time he moved to Hancock Co.?

A. No, sir; I did not.

6 Q. Do you know how much of the farm he had in Richland Co.?

A. One hundred and sixty acres.

7 Q. Do you know how much he realized from the sale of that farm?

A. To the best of my knowledge, I do not.

8 Q. Do you know how much personal property he had when he moved to Hancock Co.?

A. All the property he had was personal property at that time, and I suppose would amount in the neighborhood of $25,000.

9 Q. Did he ever talk with you much about his business matters?

A. He did not sit down and give me a minute history of his business.

10 Q. Is the estimate of his worth at that time based on what you supposed he was worth or on what you knew he was worth?

A. Well, it is based on what I know he was worth, from what he told me.

11 Q. He was very close-mouthed about his business matters, was he not?

A. He was.

12 Q. And he loaned money for other people, did he not?

A. Not to my knowledge, when he lived in Richland Co.

13 Q. For how long a time did he have money loaned on notes and mortgages, and did he own real estate in Indiana?

A. I could not tell how long he had money loaned in In-
309 diana. He owned, I think, three different pieces of land there.

14 Q. Did he own any real estate there at the time of his death?

A. Not to my knowledge.

15 Q. Did he have any money loaned there at the time of his death?

A. He loaned me $500. I am not certain whether I paid him one hundred or two hundred dollars before his death; am quite certain I paid him two hundred dollars.

16 Q. Do you know of his having been executor of several estates when he resided in Richland Co.?

A. Yes, sir.

17 Q. Do you not know that he loaned money for these estates?

A. I don't think he ever did, sir. They were settled in my absence.

18 Q. Do you know anything about his having loaned money for other persons after he moved to Hancock Co.?

Objected to by attorney for respondents.

A. Well, sir, he told me he had received $1,800 once for to loan out. He never told me who that money came from.

19 Q. When was it he told you this?

Objected to by attorney for respondents.

A. I couldn't state; it was a long time after he had received it.

20 Q. Did he ever state to you that he was loaning money for a Mr. Dillman?

(Objected to by attorney for respondents.)

A. Well, he told me that he had some of Mr. Dillman's money, but what amount I never knew from him.

21 Q. Do you know whether the money you speak of as having borrowed from your brother was Mr. Dillman's or not?

Question objected to by the attorney for respondents.

A. I do not know direct from my brother. I supposed it was not from my brother. I do not know—not from my brother when I got this money. I had been there several days and proposed going home, and my brother told me if I would wait till the next
310 day that he had money due to him in the bank and could get it out of the bank, and he would rather I would wait, as the money he had on hand was gold and he would rather keep it.

22 Q. What led you to suppose at any time that it was Mr. Dillman's money that he had loaned you?

Objected to by attorney for respondents.

A. Well, it was not from any information I had received from him. Well, I can't tell that there was anything. I supposed I imagined it. I can't say I got it from any authentic source whatever. I know I thought when I got the money that it was his own money.

23 Q. What led you to imagine it was Mr. Dillman's money?

Objected to by attorney for respondents.

A. I don't know that I knew at that time that he had any of Mr. Dillman's money.

24 Q. What, then, led you to imagine it?

A. Nothing more than Mr. Dillman claimed that there was an unsettled account between them, and that my brother was owing him.

25 Q. Did you ever tell Mr. Dillman that you or your wife had borrowed of Mr. Hastings $500.00 of his, Dillman's, money?

A. Well, I might have told nim such a story, but I did not know it to be Dillman's money. I don't know it yet. My brother never told me it was; it was imagination more than anything else. I formed this idea after hearing Dillman's claim.

26 Q. Did you ever see the note you gave for that money after you gave it?

A. Yes, sir.

27 Q. When?

A. I think it was last Saturday, in the afternoon.

28 Q. Did you not see it shortly after Mr. Hastings' death?

A. Well, now, I can't be positive. I might have seen it, and might not.

311 29 Q. Don't you recollect having seen the letters J. W. D. in pencil on that note?

A. I do not, because I looked for them when I saw the note and I did not see them on it.

30 Q. When was it you looked for them?

A. I think it was last Saturday afternoon.

31 Q. When was it you went to Mr. Hastings' during his last illness—that is, when was it in reference to his death?

A. Well, I think I was there about thirty-six hours before his death. It might have been a little longer. I know it was but a short time.

32 Q. How long did you remain after his death?

A. Well, it was something like two weeks.

33 Q. Was Mr. Dillman there when you got there?

A. No, sir.

34 Q. How long after you got there did he appear?

A. Well, sir, I don't know whether he came there the same night or the next night. I am not positive—I couldn't say. I think it was the next night, though.

35 Q. Was he still there when you left for home?

A. Well, sir, I don't know.

36 Q. When did Mr. Sheckles come?

A. I think he came the evening before he was buried.

37 Q. How long did he remain?

A. I think he left the next morning after the burial.

38 Q. When was it you had the conversation you speak of with Mr. Sheckles and Mr. Dillman?

A. I think it was the morning that Mr. Sheckles left and the day after the burial.

39 Q. Who was present at the conversation?

A. I don't remember of more than us there being in the room. My opinion is that John Hastings was in there. I don't know whether it was John or Phil. My opinion is there was an-

312 other person—perhaps more.

40 Q. Between whom was the conversation carried on?

A. The principal part of the conversation was between Mr. Sheckles and the doctor.

41 Q. What was it that Dr. Dillman said in regard to their showing him the papers & books of the estate?

A. Well, he claimed that he did not see any reason why they should not — him the papers in order that he might make out his bill against the estate. He did not appear to know exactly how much it was.

42 Q. Did he want to compare them with his own papers?

A. Yes, sir.

43 Q. There at Mr. Hastings' house?

A. Yes, sir.

44 Q. In your presence?

A. Yes, sir.

45 Q. Did he offer to show his papers if they would produce those of the estate?

A. Not to the best of my recollection he did not.

46 Q. Do you not recollect of his having offered to lay his papers all before you and them, provided they would do the same with their papers, and figure it up among yourselves how much there was coming to him?

A. I don't remember of such a conversation. There might have been, but I don't remember it.

47 Q. Do you recollect his having made that offer to the administrators after this in the probate judge's office?

A. I did not hear no such conversation, to the best of my recollection.

48 Q. Was there not a list of notes held by Mr. Hastings lying on the table or somewhere in the room at the time of the conversation?

A. I don't know how they could have got there.

49 Q. Did you have any conversation with Dr. Dillman in regard to his account before Mr. Sheckles came?

A. I think I did.

313 50 Q. When was that?

A. Well, it couldn't have been very long.

51 Q. What, if anything, was done in that time by you?

A. I don't know as there was anything done.

52 Q. Don't you recollect that at that time you got a memorandum or an abstract of notes left by Mr. Hastings and also some memorandum books of his showing accounts between him and Dr. Dillman?

A. I think this was after Mr. Sheckles had left, but I don't think

there was any list of notes, but I do recollect about the memorandums, though.

53 Q. Don't you recollect of having seen a piece of yellow wrapping paper with a list of the notes on?

A. Yes, sir; a list of notes on it. The notes were not all on it, though.

54 Q. When and where did you see it?

A. I saw it in the sitting-room the same day, I suppose.

55 Q. When and where, if ever, did you see that paper again?

A. I have no recollection of ever seeing it since.

56 Q. Did you ever see the notes left by Mr. Hastings?

A. I have seen a portion. My recollection is that there were some notes in his wallet that I never saw.

57 Q. When did you see them?

A. Well, I saw them in his room, where he kept his papers.

58 Q. Tell us what your best recollection is as to the conversation in regard to the amount that Dr. Dillman claimed to be due him from the Hastings estate.

A. Well, I never heard him, to the best of my recollection, give any stated amount only what he gave to Sheckles. It would run from $2,000 to $4,000. He didn't appear to know himself what the amount was that was due.

59 Q. Did Mr. Sheckles ask him if there was $4,000 due him?

A. No, sir.

314 60 Q. What did Mr. Sheckles ask him?

A. Mr. Sheckles asked him if the estate owed him anything or if my brother owed him anything. His answer was that it was $2,000 or $3,000 or $4,000. He did not know until he saw my brother's papers.

61 Q. Do you recollect of Miss Lizzie Hastings helping you to find the memorandum book and this list of notes?

A. My recollection is that she handed me this memorandum book. It seems that I picked the list of notes up off the floor or lounge.

62 Q. When was this?

A. It was either the next day or the day after—the day after the funeral.

63 Q. Don't you recollect of Dr. Dillman's looking at that paper at that time and comparing it with a list of notes that was in a letter that he purported to have received from Mr. Hastings in his lifetime?

A. No, sir; I do not.

GEORGE W. HASTINGS.

I, H. H. Coldham, a notary public in and for Lucas county, Ohio, do hereby certify that George W. Hastings, the witness above named, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition by him subscribed was reduced to writing by me and written and by said witness subscribed in my presence, and was taken at the time and place specified in the enclosed notice.

In testimony whereof I have hereunto set my hand and official seal this 4th day of October, 1887.

[SEAL.] H. H. COLDHAM,
Notary Public.

315 *Complainant's Testimony in Rebuttal.*

And afterwards, on the 30th day of September, 1887, the following depositions were filed on behalf of complainant, viz:

Circuit Court of the United States, Northern District of Ohio, Western Division.

THE STATE OF OHIO, *Hancock Co.*, } ss:

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS *of* PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Defendants.

The defendants will take notice that on Tuesday, the 27th day of September, A. D. 1887, the above-named complainant will take the depositions of sundry witnesses, to be used as evidence on the trial of the above-entitled cause, at the court-room of the court of common pleas of Hancock county, Ohio, in the city of Findlay and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the *the* taking of the same will be adjourned from day to day, between the same hours, until they are completed.

BAKER, SMITH AND BAKER,
Solicitors for Compl.

I acknowledge service of the above notice by copy this — day of ——, 18—.

WHITELY & BOPE & SHAFER,
Attorneys for Def'ts.

Caption.

Depositions taken before me, Louis A. Carabin, a notary public within and for the county of Hancock, in the State of Ohio, pursuant to the annexed notice and stipulation, at the time and place therein specified, to be read in evidence on behalf of the complainant in an action pending in the U. S. circuit court, northern dist. of Ohio, western division, in the State of Ohio, in which Jared
316 W. Dillman — compl. and John F. Hastings and Philip J. Reimund, administrators of Joseph Hastings, deceased, — respondents.

Present: R. H. Baker, on behalf of complainant, and M. C. Whitely and M. D. Shafer, on behalf of the respondents.

ABRAHAM TEATSORTH, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

By R. H. BAKER:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Abraham Teatsorth; I am 55 years of age; I am a teamster by occupation, and I reside in Findlay, Ohio.

2 Q. What relation, if any, did you bear to your father's estate?

A. I was chosen executor by him.

3 Q. State whether or not Nov. 20, 1882, you filed in the probate court, as executor of the estate of James Teatsorth, a partial account of your proceedings as such executor, and April 11, 1884, filed in the probate court, Hancock county, as such executor, what was called a restatement of the whole account, as such executor.

A. Yes, sir; I did.

4 Q. You may look at the paper I hand you and tell me if it is the original account you filed Nov. 20, 1882.

A. Yes, sir; I believe that to be the first one, and I believe that to be the correct one.

5 Q. Read to the notary the first entry on that account under the head of credits.

A. The first, April 5, 1881, pay J. Hastings on notes $2,331.65.

6 Q. In whose handwriting is that account, if you know?

A. I believe that to be Joseph Hastings'.

7 Q. Who made up that account for you?

A. Joseph Hastings made that account individually, himself.

8 Q. State whether or not that shows the correct amount paid by you to Joseph Hastings as executor of your father's estate.

A. It did up till that date.

317 9 Q. Look at the account I hand you, filed in the probate court, dated April 11, 1884, and state whether it is the original of the account filed that day by you as such executor.

A. This is the settlement that J. F. Burket, attorney, filed; Burket was my attorney; it is the original account.

10 Q. Read to the notary the first four items under the head of credits on that account.

A. April 5, 1881, by cash paid J. Hastings on note voucher one, $1,008.00; April 5, by cash paid J. Hastings on note voucher 2, $925.33; April 5, by cash paid J. Hastings on note voucher 3, $273.54; Dec. 1, by cash paid J. Hastings, interest on note voucher 4, $11.01.

12 Q. Which of these two accounts, if either, state the correct amount you paid J. Hastings as executor of your father's estate?

A. The first account is the correct account, $2,331.65; that is the correct account, principal and interest.

Cross-examination:

1 Q. Upon what claims held against the estate by Joseph Hastings at the time you filed the first account did you make the payment of $2,331.65?

A. On the notes he held against the estate.

2 Q. Look at the notes No. 1, No. 2, No. 3, and No. 4, and say whether or not such payment was made on said notes.

A. These are the notes; yes, sir.

3 Q. State whether these notes now shown you as No. 1, 2, 3, and 4 are the same that are carried as credits in second account marked vouchers 1, 2, 3, and 4, filed April 11, 1884.

A. They are the same.

4 Q. Did Joseph Hastings, at that time, hold any other notes against the estate, and did you or not omit from said ac-
318 counts any claim which you paid to said Hastings?

A. He did not at that time; I paid him in full and carried the payments to the account.

4 Q. Was the money which you borrowed from Hastings and for which you gave him the note marked voucher 4, dated April 5, 1881, for $210, a part of the same moneys reloaned to you which you had paid on vouchers 1, 2, and 3 at that time?

A. It was.

ABRAHAM TEATSORTH.

DAVID FELLERS, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

1 Q. State your name, age, occupation, and place of residence.

A. David Fellers; seventy-two; don't do anything; Findlay, Ohio.

2 Q. What public position, if any, did you hold in the spring of 1886?

A. I was assessor of the second ward of the village of Findlay, Ohio.

3 Q. State whether or not you recollect a conversation that spring between yourself, the mayor of the village, W. W. Siddall, and J. W. Dillman; and, if so, give it as fully as you can and where it was held.

A. The particular words I could not recollect; it was in the mayor's office. I don't know how to get at it any nearer than this: I got Mr. Dillman to go with me to the mayor to see if he would assist me in getting at the account of money he had loaned out, if any; we could not conclude on anything, except we could find nothing to assess, and we dropped the matter, in fact, and, consequently, adjourned.

4 Q. Did Mr. Dillman state any definite amount of money as being due to him from the estate of Joseph Hastings?

A. Not to my recollection.

5 Q. State whether or not Mr. Dillman said that there was 15 or 16 hundred dollars due him from the estate of Joseph Hastings.

A. Not that I recollect of; no such remark made.

319 6 Q. State whether or not the question was asked Mr. Dillman as to how much was due him on the estate of Joseph Hastings.

A. I think there was no questions asked.

7 Q. State whether or not Mr. Dillman denied his liability to be taxed on the moneys due him from the estate of Joseph Hastings.

A. He said that he did not consider himself liable to be taxable; that Mr. Hastings paid the taxes on his money.

8 Q. Who, if any one, suggested to you the bringing of Mr. Dillman to the mayor's office?

A. Lawyer Shafer—M. D. Shafer.

Cross-examination:

1 Q. What did you take Mr. Dillman to the mayor's office for?

A. For the purpose of being assisted by the mayor to the questioning of Mr. Dillman whether he had any money to be taxed or not.

2 Q. Did you or not question him at the mayor's office about the moneys supposed to be in the hands of Hastings; and, if so, what did he say about it?

A. Well, he was asked by the mayor or myself; I can't tell which. Mr. Dillman said that the money in the hands of Hastings was given by Hastings to the assessor.

3 Q. Where does Mr. Hastings board when he's at Findlay?

A. I can't say where he boards now. I know where he boarded at the time I tried to assess him.

4 Q. What part of the time did he board at your house?

A. He never boarded there.

5 Q. How often have you conversed lately with Mr. Dillman about what occurred at the mayor's office, as you have above stated?

A. I think we have talked twice.

6 Q. In those conversations did he state to you how he understood the conversation that occurred at the mayor's office?

A. No; not that I recollect of.

320 7 Q. What were the conversations about?

A. Well, it was in regard to whether I heard him say that he had a one-thousand-dollar or fifteen-hundred-dollar — in the hands of Hastings.

8 Q. Did he tell you in those conversations what he had said at the mayor's office?

A. No, sir.

9 Q. How is your memory now as to events that transpired one or two years ago?

A. I think fair. I can remember back that length of time very well, I think.

10 Q. To what extent did you examine Mr. Dillman to find out what moneys he had in this county?

A. We went to nothing further than enquiries to himself, and he stated this case to us as having nothing taxable here.

11 Q. When you asked him about the money in the hands of Hastings what was his answer as to the amount he had there?

A. He did not say what amount he had.

12 Q. Did he say anything about there being mutual and unsettled claims between them, and that he did not know what balance, if anything, was due him from Hastings?

Redirect examination:

1 Q. Did he or not say that he did not know anything was due him from the estate of Joseph Hastings?

A. He didn't say anything about — to my knowledge.

DAVID FELLERS.

J. F. BURKET, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

1 Q. What is your name, age, occupation, place of residence?

A. J. F. Burket; fifty years old; lawyer; Findlay, O.

2 Q. State whether or not in April, 1884, you made out a restatement of the whole account of Abraham Teatsorth as executor of the last will of James Teatsorth, deceased.

321 A. Yes, sir; I did.

3 Q. Where did you get *our* data from to make up the first four items in your credits on that account, being the amount paid by said executor to J. Hastings, as evidenced by vouchers 1, 2, 3, and 4 filed with said account?

A. I obtained the data for said four items from the four promissory notes constituting vouchers 1, 2, 3, 4 in said account, and ascertained the amount of each of said promissory notes by calculating the interest thereon at the rate of eight, 8%, per cent. to the date of payment of each of said notes, as shown by the receipt of payments thereon on the back of each. I have no knowledge or information that — the time of stating said account that more than eight per cent. had been paid by said executor on said notes or either of them, and I made no inquiry of said executor as to what rate of interest he had in fact paid, but relied on the face of the papers and calculated the interest at 8% up to April 5, 1881, on one, two, and three and to Dec. 1, 1881, on voucher No. 4. The statement made on back of voucher No. 4 as to its being for borrowed money is in my handwriting, and I obtained the facts therein stated from said executor at the time of stating said account.

4 Q. State whether or not the indorsements on the notes shows the amount paid in dollars and cents.

A. They do not, but show that each note was paid in full without naming the am't.

Cross-examination:

1 Q. Was the executor present when you stated said account, and was the same verified at the time by him in your office?

A. He was present substantially all the time while I was writing the account. I think he was out a short time after dinner while

322 I was working on the account, and the account was verified by him in my office after being carefully read over to him.

2 Q. Who furnished you, to be entered as credits on said account, vouchers 1, 2, 3, 4, and were the receipts then on the back of said vouchers, or had they been placed thereon before that time?

A. Said vouchers 1, 2, 3, 4 were furnished to me by the executor, and were allowed by the probate judge of Hancock county to be taken.

from the files in his office, where they had been placed by the executor when he made his first account and where I obtained them for the purpose of stating this account. The receipts now appearing on the back of each of said vouchers were thereon when I first saw the vouchers at the probate judge's office and before stating this account.

3 Q. Look at the account filed by the executor of James Teatsorth Nov. 20, 1882. Say whether that is the account with which you found vouchers 1, 2, 3, 4 at the time you restated the second account, April 11, 1884.

A. I have now examined the account now handed me by Judge Whiteley, perporting to have been filed Nov. 20, 1882, but I cannot identify it as being the account with which said vouchers had been filed, for the reason that I have no recollection as to the general looks and appearance of said account; that only remember that I then regarged it as so far incorrect that it would be better to restate the entire account. My recollection is that but one account had been previously filed, and from the date of the filing of this one I am of the opinion that this is the account with which said vouchers were found, but I cannot state positively.

J. F. BURKET.

323 It is hereby stipulated and agreed that depositions may be taken under the above notice before Louis A. Carabin, a notary public in and for the county of Hancock and State of Ohio, and that all other notices, prerequisites, and forms required by law or rule of court for the taking of testimony are waived, and testimony taken under the foregoing notice shall be received in evidence the same as if all such legal requirements and formalities were fully complied with, subject to objection for incompetency or irrelevancy.

Findlay, Ohio, September 27, 1887.

BAKER, SMITH & BAKER,
Sol's for Compl.
WHITELEY & BOPE & SHAFER,
Sol's for D'f'd'ts.

THE STATE OF OHIO, } ss:
Hancock County, }

I, Louis A. Carabin, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Abraham Teatsorth, David Fellers, J. F. Burket were by me severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by me respectively subscribed, as above set forth, were reduced to writing by me in the presence of the witnesses respectively, and were subscribed by said witnesses in my presence, and were taken at the time and place in the annexed notice specified and continued from day to day, as set forth.

I do further certify that I am not counsel, attorney, or relative of either party or otherwise interested in the event of this suit.

In witness whereof I have hereunto set my hand and seal of office this 27 day of September, A. D. 1887.

[SEAL.] LOUIS A. CARABIN,
Notary Public for Hancock County, Ohio.

324 And afterwards, on the 13th of October, 1887, the following depositions were filed on behalf of the complainant, viz:

THE STATE OF OHIO, *Lucas County,* } *ss:*

United States Circuit Court, Northern District of Ohio, Western Division.

JARED W. DILLMAN, Complainant,
against
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the Estate of Joseph Hastings, Deceased, Respondents.

The respondents will take notice that on Tuesday, the 11th day of October, A. D. 1887, the above-named complainant will take the depositions of sundry witnesses to be used as evidence on the trial of the above-entitled cause at the office of Baker, Smith & Baker, in the city of Toledo, county of Lucas and State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day between the same hours until they are completed.

BAKER, SMITH & BAKER,
Solicitors of Complainant.

I acknowledge service of the above notice by copy and waive all requirements in regard to time of service of notice this 11th day of October, 1887.

SHAFER, WHITELY & BOPE,
Solicitors for Respondents.

Caption.

Depositions taken before me, Ashton H. Coldham, a notary public within and for the county of Lucas, in the State of Ohio, pursuant to the annexed notice and agreement, at the time and place therein specified, to be read in evidence on behalf of the
325 complainant in an action pending in the United States circuit court, northern district of Ohio, western division, in which Jared W. Dillman is complainant and John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, respondents.

Present: Mr. R. H. Baker, on behalf of complainant, and Hon. M. C. Whiteley, on behalf of the respondents.

JARED W. DILLMAN, of lawful age, being by me first duly sworn, as heretofore certified, deposes and says as follows:

By R. H. BAKER:

1 Q. State your name, age, occupation, and place of residence.

A. My name is Jared W. Dillman; I am forty-nine years of age; I am a physician by occupation, and I reside in Philadelphia.

2 Q. You stated in your examination in case-in-chief that you had only seen Mr. Joseph Hastings once from March 10, '85, to Feb. 12th, '86, and that that was at Philadelphia some time in the beginning of '80. Do you recollect now whether that was so or not?

(The examination of this witness objected to by the respondents because of his being the pl'ff in the case.)

A. I remember now that it was not so; instead of being in 1880 it was in 1883.

3 Q. Who, if any one, was with Mr. Hastings at the time?

(The respondents object to each question as it is asked.)

A. Mr. Korkin, of Mansfield, Ohio.

4 Q. State whether or not you recollect of having had a conversation with W. W. Siddall and David Feller at Findlay in the spring of 1886; and, if so, what that conversation was.

(Question objected to by respondents.)

A. Yes; I had a conversation. I had a conversation with those gentlemen at that time relative to taxation. Mr. David Fel-
326 lers came to my place and said that he had been informed that I had taxable property. After explaining to him that I had not he wished that I should come and explain the same before Mayor Siddall and himself to relieve him of all responsibility in the matter. I did so the next morning.

5 Q. What, if anything, was said at the conversation the next morning?

(Question objected to by respondents.)

A. I again explained that I had nothing taxable, when the question was asked had I not been loaning money in Hancock county. I explained that I had not, but that I had an agent who had been loaning for me, but that he held all the papers, and even my claim to the money he had been having was even disputed. My agent was Mr. Joseph Hastings.

6 Q. State what, if anything, was done towards taxing you at that time.

(Question objected to by the respondents.)

A. Both Mr. Fellers and Mayor Siddall stated that they were fully satisfied with my explanation and convinced that I had nothing of a taxable nature.

7 Q. State whether or not they or either of them asked you how much your claim against the Hastings estate amounted to.

(Question objected to by the respondents.)

A. They did.

8 Q. What was your answer?

Question objected to by respondents.

A. My answer was that my claim, whatever it may be, is in dispute and cannot make any difference as to what it is, since it is not taxable.

9 Q. State whether or not you told them or either of them that your claim against the Hastings estate amounted to $1,500 or $1,600.

(Question objected to by the respondents.)

A. I have no recollection of making any such statement. I feel very confident that I did not, for the reason that I remember
327 very distinctly of replying to their question as to how much my claim was.

10 Q. What was your reply to their question?

Question objected to by the respondents.

A. As before stated, my claim is in dispute, and since they had agreed that it is not taxable it can make no difference as to how much it is.

11 Q. State whether or not you recollect having a conversation with Joseph S. Hastings in the spring of 1887.

Question objected to by the respondents.

A. I do.

12 Q. What was that conversation about?

(Question objected to by r'sp'd's.)

A. I asked Mr. Hickman whether he had been borrowing money of Mr. Hastings, how long, and whether he still had some of the money—when he had paid the last.

13 Q. What, if anything, did he say about having paid Joseph Hastings $100 in January, 1886?

(Question objected to by respondents.)

A. He said the last payment was made January, 1886, amounting to $100.

14 Q. State whether or not you told him that you had received from Mr. Hastings that $100.

(Question objected to by respondents.)

A. Yes; I think I did. I informed him that I had received $700 from Mr. Hastings, and I may have said to him that this $100 may have been included in this $700.

15 Q. State whether or not you showed him any papers or book showing the receipt by you of that $100.

Question objected to by the respondents.

A. I did not; if I would have had a book or receipt to show the $100 it would have reminded me of such.

16 Q. State whether or not you showed him any paper at that time.

Question objected to by the respondents.

A. Yes; I showed him a copy of the inventory showing that he had paid Mr. Hastings the $100.

328 17 Q. Inventory of what?

(Question objected by the respondents.)

A. Inventory of the Hastings estate. In my conversation with Mr. Hickman about the one hundred dollars instead of saying I think I received the hundred dollars from Mr. Hickman I meant that Mr. Hastings had received the $100, and then showed him the inventory.

18 Q. Look at the paper marked "Exhibit A" on defense, Louis A. Carabin, notary public, and attached to the deposition of Joseph S. Hickman in this case, and say whether or not it is the paper you showed him on that occasion.

Question objected to by the respondents.

A. It is.

19 Q. When did you arrive at Mr. Hastings' house during his last illness?

Question objected to by the respondents.

A. I arrived on the 11 of Feb'y, 1886—on Thursday—and he di-d the following day.

20 Q. State whether or not Mr. G. W. Hastings or Mr. George H. Sheckles were present when you arrived.

Question objected to by the respondents.

A. Mr. George Hastings was; Mr. Sheckles not.

21 Q. When did Mr. Sheckles arrive?

(Question objected to by r'sp'd'ts.)

A. Late Saturday evening, the day following Mr. Hastings' death.

22 Q. When was Mr. Hastings buried?

(Question objected to by r'sp'd'ts.)

A. The following Sunday noon, Feb'y 14th, 1886.

23 Q. What, if any, conversation did you have with Mr. G. W. Hastings on Saturday, Feb'y 13, 1886, in relation to your claim against Mr. Joseph Hastings?

(Question objected to by r'sp'd'ts.)

A. I stated to him the circumstance bringing me there at that time; that I had been writing and urging a settlement with his brother and the last letter received was not in his handwriting, so I took the train and came out, believing him ill, hoping to fix a settlement with him personally.

329 24 Q. Where is that letter now?

(Question objected to by respondents.)

A. That letter was lost.

25 Q. In whose handwriting was it? State, if you know.

Question objected to by the respondents.

A. I do not know.

26 Q. Did you or did you not ever say to Mr. G. W. Hastings that your claim against the Joseph Hastings estate amounted to from $2,000 to $4,000?

(Question objected to — resp'd'ts.)

A. I did not.

27 Q. Did you or did you not ever say to George S. Sheckles that your claim against the Joseph Hastings estate amounted to from $2,000 to $3,000 or $4,000?

(Question objected to by r'sp'd'ts.)

A. I have no recollection of any such conversation, and under existing circumstances it would seem impossible for me to have made any such statement.

Answer objected to by the respondents.

28 Q. State whether or not Mr. G. W. Hastings showed you at any time any memorandum books or any copy of notes left by Mr. Joseph Hastings.

Question objected to by the respondents because it calls for testimony-in-chief.

A. Yes. While in conversation that Saturday as to what brought me there we spoke further about our business relations, and I then stated to Mr. George Hastings if we had Mr. Hastings' account we could compare it with my account, which I have in my pocket. He and Miss Lizzie Hastings then went upstairs and shortly returned with two note books and a rough copy of a partial list of notes Mr. Hastings had sent me. We then compared this partial list of notes with the list sent to me by Mr. Hastings in a letter dated Jan. 8th, 1886, and marked "Exhibit J," H. F. Burket, notary public, and agreed that they were precisely the same except the
330 additional writing in the letter.

29 Q. State whether or not you saw this partial list of notes at any time again within the next ten days.

Question objected to by the respondents.

A. Yes; the list of notes was left by us lying on the table, where it remained Saturday, Sunday, and Monday until I left the house.

30 Q. State whether or not you ever saw that paper after that.

Question objected to by the respondents.

A. I saw that paper once more after that in Lawyer Shafer's office. Sitting by the stove talking about my claim, this partial list of notes was referred to, when Mr. Shafer walked to a table and raised this partial list of notes and asked me whether this was the list of notes I referred to. I said it was.

(Answer objected to by the respondents.)

31 Q. State whether or not you asked during the day or two succeeding Mr. Hastings' death for them to show you their papers.

(Question objected to by the respondents.)

A. I did not; the only time was, as stated, on Saturday.

32 Q. State whether or not you knew at that time the am't of your claim.

(Question objected to by the respondents.)

A. I did.

33 Q. Up to what time had you figured up your claim and when had you done it?

(Question objected to by respondents.)

A. In Dec., 1885, I worked out my claim up to January 1, 1886.

34 Q. State whether or not you had any conversation with John Hastings as to the amount of your claims; and, if so, what it was, when it was, and what was done.

Question objected to, on the grounds that it is in chief, by the respondents.

331 A. I did have on Monday, Feb'y 15, 1886, while at John Hastings' house. I asked him whether he would like to work out my account, and to see whether his work would correspond with my work of my account. He said he would like to do so. I then read him my account from a note book in my pocket, after working out the full account as read to him. I stated that he had a little more than I had made of it. His amount was $15,500 and some dollars, while my account was $15,400 and some dollars.

35 Q. Have you the paper he worked out at that time?

Question objected to by the respondents.

A. I have.

36 Q. Will you hand it to the notary and request him to mark it Exhibit "H" in rebuttal and attach it to your deposition?

A. I will.

37 Q. Who wrote this paper?

Question objected to by *by* respondents.

A. John Hastings.

38 Q. Who furnished him with the figures to make it up?

Question objected to by the respondents.

A. I read them to him as he worked it out from my note book.

39 Q. Where did you stay while in Findlay at that time?

Question objected to by the respondents.

A. At John Hastings' house.

40 Q. State whether or not you stopped at Joseph Hastings' house at that time.

Question objected to by the respondents.

A. Yes; I was really stopping at Joseph Hastings' house and paid John a visit is the way I came to be at John's house that night.

41 Q. State, if you know, when Mr. Sheckles left for home.

Question objected to by the respondents.

A. Mr. Sheckel left about eleven o'clock Monday, Feb'y 15, '86, in the morning.

332 Cross-examination by Hon. M. C. WHITELEY:

1 Q. You said you received $700 on your claim against Joseph Hastings. State when and how you received that sum.

A. I received a draft on New York on the 6th or 7th of Feb'y, 1886, of $700.

2 Q. How was that draft delivered to you?

A. By letter.

3 Q. Did you reply to the letter in which you received the draft?

A. I replied in person.

4 Q. Did you reply by letter?

A. I did not.

5 Q. How long after the death of Joseph Hastings was it when you procured John's computation that you speak of above?

A. Three days after.

6 Q. Had he then been appointed administrator of the estate of Joseph Hastings?

A. He had not.

7 Q. Did you not on the day after the death of Joseph Hastings demand of the persons about the house to have an inspection of the papers of said Hastings to enable you to find out the condition of your account with him?

A. No, sir; I positively never demanded any papers for any purpose.

8 Q. Did you not at divers times during your stay at that time demand to see the papers at Joseph Hastings, and did not George W. Hastings and Mr. Sheckles refuse to allow an inspection of any papers until after an administrator had been appointed?

A. No, sir; I never demanded any papers.

9 Q. Did you at the time John S. Hastings made the computation for you show him any letters which you claimed to have evidencing your claim?

A. I had some lying on the table there; he saw them; I did not show them to him particularly.

10 Q. Did you tell John at the time that the letters lying
333 on the table contained any evidence of your claim?

A. I remember our speaking of the letters stating the way he was loaning money for me.

11 Q. Did you read or offer to read or did John read any of those letters at that time?

(Question objected to by compl.)

A. Not that I remember of.

12 Q. Did John see, to your knowledge, either the two memoran-

dum books or the memorandum paper which you say was brought down-stairs by George W. Hastings and the girl?

A. I remember Philip Brieman being present, but I do not remember of John being in the room at the time George Hastings read from those books.

13 Q. Do you know whether John saw the books or memorandum after they were brought down-stairs?

A. The partial list of notes spoken of as memorandum lay on the table those days, and John must have seen that.

14 Q. Do you know whether John saw the books or memorandum or partial list of notes of which you speak after they were brought down-stairs?

A. I do not.

15 Q. You say in one of your letters written to Mr. Hastings and filed in this case that you had lost your memorandum book containing an account of moneys sent him When, if ever, did you find that lost book?

Question objected to by complainant.

A. I never found that lost book.

16 Q. How long did you remain in Hancock county after the death of Joseph Hastings?

A. Two or three months.

Re-examination by Mr. R. H. BAKER:

1 Q. You say in your cross-examination that you never demanded to see the papers at Joseph Hastings' of the persons about
334 the house. What do you mean to be understood by that answer?

Question objected to by respondents.

A. I mean that I never made a demand as such.

2 Q. State whether or not on the day after the death of Joseph Hastings you requested the persons about the house to produce the papers of Joseph Hastings.

A. I said to George W. Hastings if we had Mr. Hastings' accounts we could compare it with my account and so have the satisfaction of knowing how they agreed.

3 Q. Did you or did you not ever hear Mr. Sheckler advise them not to show any papers of the estate to any one until after an administrator was appointed?

A. I did.

4 Q. When was that?

A. During Monday forenoon.

5 Q. State whether or not you had any conversation with Mr. Sheckler in regard to your claim against the estate?

A. I had not.

6 Q. What, if you know, induced that remark on his part?

A. The Hastings ladies informed him that we had been looking at Mr. Hastings' papers.

7 Q. From what book or memorandum did you read to John Hastings the figures from which he made up the statement?

A. From a slip of paper or leaf pasted in my ordinary pocket diary.

8 Q. State whether or not the figures on that slip of paper were copied from the account marked Exhibit "Rr" in this case and in the book marked Exhibit "Rr" in this case.

Question objected to by the respondents.

A. They were.

Recross-examination:

1 Q. Where is that memorandum book with the slip pasted
335 in?

A. Among my papers.

2 Q. Can you produce it now?

A. I think I have it among my papers; I can.

Question and answer waived.

J. W. DILLMAN.

THE STATE OF OHIO, } ss:
Lucas County, }

I, A. H. Coldham, a notary public in and for the county and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Jared W. Dillman was by me severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the deposition by him subscribed as above set forth was reduced to writing by me and in the presence of the witness and subscribed by said witness in my presence, and *were* taken at the time and place in the annexed notice specified.

I do further certify that I am not *consul*, attorney, or relative of either party or otherwise interested in the event of this suit.

In witness whereof I have hereunto set my hand and seal of office this 11th day of October, A. D. 1887.

A. H. COLDHAM,
Notary Public.

It is hereby stipulated and agreed that depositions may be taken under the above notice before Ashton H. Coldham, a notary public in and for the county of Lucas and State of Ohio, and that all other notices, prerequisites, and forms required by law or rule of court for the taking of testimony are waived, and testimony taken under the foregoing notice shall be received in evidence the same as if all such legal requirements and formalities were fully complied
336 with, subject to objection for incompetency or irrelevancy.

BAKER, SMITH & BAKER,
Sol's for Compl.
SHAFER & WHITELY & BOPE,
Sol's for Def'ts.

Toledo, Ohio, October 11th, 1887.

Exhibit "A" in Rebuttal.

J. W. Dillman's Account.

March 10th, 1875		$1,800 00
Int. at 10% to Jan. 1st, 1876		145 00
April 2, 1875		200 00
Int. until Jan. 1, 1876		13 35
June 1, 1875		200 00
Int. until Jan. 1, 1876		11 66
July 12, 1875		199 00
Int. until Jan. 1, 1876		9 28
Dec. 18, 1875		400 00
Int. until Jan. 1, 1876		1 33
The amount Jan. 1st, 1876		2,979 60
July 30, 1876		500 00
Int. until Jan. 1, 1877		20 82
Nov. 17, 1876		500 00
Int. until Jan. 1, 1877		5 96
Amount of both years up to Jan. 1st, 1877		4,304 34
July 4, 1877		201 00
Int. until Jan. 1, 1878		9 80
Amount Jan. 1st, 1878		4,945 57
Jan. 12, 1878		500 00
Int., Jan. 1st, 1879		48 32
May 4th, 1878		300 00
Int., Jan. 1st, 1879		19 66
Oct. 8, 1878		200 00
337 Int., Jan. 1, 1879		4 55
Dec. 5, 1878		200 00
Int., Jan. 1st, 1879		3 04
The amount during 1878		1,275 57
Amount of all up to Jan. 1, 1879		6,715 69
March 11th, 1879		200 00
Int., Jan. 1st, 1880		16 04
May 6, 1879		200 00
Int., Jan. 1st, 1880		12 93
Aug. 20th, 1879		200
Int., Jan. 1st, 1880		7 21
Oct. 9th, 1879		1,200 00
Int., Jan. 1st, 1880		26 99
Dec. 25, 1879		100 00
Amount for 1879		1,963 17
Amount of all Jan. 1st, 1880		9,350 42
Amount Jan. 1st, 1881		10,285 46
Amount Jan. 1st, 1882		11,108 29
May 21st, 1881		300 00
Int., Jan. 1, 1882		14 60
Amount of all Jan. 1, 1882		11,422 89
Amount up to Jan. 1st, 1883		12,336 72

Amount Jan. 1st, 1884	13,323 65
Amount Jan. 1st, 1885	14,389 54
Amount Jan. 1, 1886	15,540 70
Feb. 2nd, J. W. Dillman received	700
	$14,840 70

The above is a true copy of account as calculated by me.

JOHN HASTINGS.

338 *Order to Appraise.*

THE STATE OF OHIO, } ss:
Hancock County, }

In Probate Court.

In the Matter of the Estate of JOSEPH HASTINGS, Deceased.

To D. Stoker, Frank Bigelow, and R. M. Watson, appraisers, Greeting:

You are hereby notified that you have been appointed by the probate court of said county to appraise the personal estate and effects belonging to the estate of Joseph Hastings, late of Findlay township, in said county, deceased.

These are, therefore, to authorize and require you well and truly to appraise all the personal estate and effects of the deceased which shall be presented to you by John F. Hastings and Philip J. Reimund of said estate, and also to (appraise upon actual view the real estate described in Schedule G and) perform all other duties required by law of you in the premises as appraisers; and you are further commanded to deliver this order, with your proceedings thereon, to the said administrators, that the same may be returned to said court within three months from the date hereof.

[SEAL.] Witness my hand and the seal of said probate court, at Findlay, O., this 18th day of February, A. D. 1886.

GEO. W. MYERS,
Probate Judge.

339 THE STATE OF OHIO, } ss:
Hancock County, }

John F. Hastings, adm'r of the estate of Joseph Hastings, deceased, makes oath (affirmation) that copies of the above notice of the time and place of the making the within inventory and appraisement were posted up in two of the most public places in Findlay township, wherein the said deceased last dwelt, and were served on Elizabeth Hastings and Isadora Reimund, legatees and next of kin of said decedent, residing in said county, at least five days prior thereto.

JOHN F. HASTINGS.

Subscribed in my presence and sworn to before me this 6th day of March, 1886.

GEO. W. MYERS,
Probate Judge.

Oath of Appraisers.

THE STATE OF OHIO, } ss:
Hancock County, }

We, the undersigned, to make solemn oath (affirmation) that we will truly, honestly, and impartially appraise the estate and property that may be exhibited to us belonging to the estate of Joseph Hastings, deceased, and perform the other duties required by law of us in the premises as appraisers according to the best of our knowledge and ability.

R. M. WATSON.
F. F. BIGELOW.
D. R. STOKER.

Subscribed in my presence and sworn to before me by the said appraisers on the 20th day of February, A. D. 1886.

GEO. W. MYERS,
Probate Judge.

340 *Inventory and Appraisement Estate of Joseph Hastings, Deceased.*

SCHEDULE E.

Statement of the Amount of Money in the Hands of said John F. Hastings and Philip J. Reimund Belonging to said Estate.

U. S. Treasury notes	110 00
National bank notes	10 00
Specie	233 05
Total amount of money	353 05

Dated March 2d, 1886.

R. M. WATSON,
D. R. STOKER,
F. F. BIGELOW,
Appraisers.

SCHEDULE F.

The following is a particular statement of the bonds, mortgages, notes, and other securities for the payment of money and of other debts and accounts belonging to the said decedent:

Name of debtor.	Nature of claim.	Date.			When due.			Sum originally payable.	Endorsements and payments.				Amount due.	Sum probably collectable.
									Date.			Amount.		
		Month.	Day.	Year.	Month.	Day	Year.		Month.	Day.	Year.			
Robert J. Wells	N. M.	Aug.	2	1884	Aug.	2	1886	803 85	Dec.	18	1885	200 00	705 40	705 40
John S. Trout	N.	Aug.	17	1885	Aug.	17	1886	200 00	------	---	------	------	208 67	208 67
John S. Trout	N. M.	Nov.	14	1884	Nov.	14	1886	1,091 85	------	--	------	------	1,207 49	1,207 49
Chas. H. Bigelow	N.	June	15	1882	Dec.	15	1882	100 00	------	---	------	------	129 71	129 71
Adam Reimund	N.	June	29	1883	Oct.	29	1883	200 00	Sep.	23	1885	3 00	219 10	219 10
David Priest	N.	Sep.	30	1882	Sep.	30	1884	100 00	June	7	1884	20 00		
David Priest	N.	June	30	1883	June	30	1884	50 00	------	---	------	------	120 53	120 53
J. L. Ferrall	N. M.	July	11	1884	July	11	1885	300 00	July	11	1885	24 00	60 69	60 69
Spence heirs	------	Contract given to B. P. Coon, found among the papers of Joseph Hastings											315 40	315 40
Buck, Reimund and Seyfang.	N.	Feb'y	19	1883	Aug.	19	1883	200 00	------	---	------	------	75 00	Doubtful.
John M. Furgeson	N.	June	4	1881	June	4	1882	50 00	Dec.	11	1884	10 00	248 57	248 57
J. S. Hickman	N. M.	May	7	1881	May	7	1882	650 00	May	6	1882	52 00	69 07	69 07
									"	7	1883	52 00		
									Int. p'd to Nov. 15th, 1884					
					Int. to this date in full, Nov.				15, 1885	---	------	52 00	665 40	665 44
J. S. Hickman	N. M.	Nov.	15	1884	Nov.	15	1885	327 60	Nov.	15	1885	26 20		
									"	15	1885	35 00		
Rebecca Hastings	N.	Dec.	27	1882	Dec.	27	1885	500 00	Jan'y	17	1886	100 00	198 50	198 50
									Jan'y	1	1884	100 00		
Robert H. Chase	N.	Dec.	8	1883	Dec.	8	1884	140 00	Dec.	29	1884	100 00	458 16	458 16
									Dec.	8	1884	31 25	131 78	131 78

Geo. D. Chase	N.	Aug.	31	1880	Aug.	21	1881	200 00	Aug.	31	1881	16 00		
									"	31	1884	51 94	224 65	224 65
341 Justice Chase	N.	Dec.	19	1879	Dec.	19	1880	671 00	Aug.	30	1880	110 00		
									May	13	1881	108 00		
									June	31	1882	200 00		
									Jan'y	17	1883	100 00		
									Dec.	4	1884	50 00	338 63	338 63
Geo. D Chase	N.	Oct.	9	1879	Oct.	9	1880	204 00	Oct.	9	1881	42 00		
									"	9	1884	52 97	226 80	226 80
Harlan P. Clark	N. M.	Nov.	25	1884	Nov.	25	1886	800 00					882 62	882 62
M. D. Shafer	N.	July	21	1885	Dec.	20	1885	200 00					209 82	209 82
C. F. Granel	N.	May	20	1881	May	20	1882	76 83	Nov.	29	1882	1 50	104 72	104 72
Jacob Mitchel	N.	May	3	1884	May	3	1885	100 00					114 66	114 66
Eli King	N.	May	3	1884	May	3	1885	500 00	May	2	1885	40 00	533 33	533 33
									Int. p'd to Jan'y 8th, 1882					
Emanuel Smith	N.	Jan'y	8	1878	Jan'y	8	1879	200 00	Nov.	15	1884	7 00	242 78	242 78
Wm. Blue	N.	June	19	1879	Ap'l	1	1880	50 00	Indorsements			39 00	33 81	Doubtful.
Geo. L. Sheckler	N.	Oct.	1	1881	Oct.	1	1882	300 00					406 00	406 00
Geo. L. Sheckler	N.	Ap'l	9	1878	M'ch	25	1879	204 00	M'ch	31	1879	130 00	140 27	140 27
John F. Hastings	N.	Sep.	1	1882	Sep.	1	1883	83 00	Oct.	20	1883	69 00	22 32	22 32
John F. Hastings	N.	Sep.	1	1882	Sep.	1	1884	84 00					101 64	101 64
Total													8,395 52	8,286 71

Dated March 2d, 1886.

R. M. WATSON,
D. R. STOKER,
F. F. BIGELOW,
Appraisers.

Affidavit.

THE STATE OF OHIO, } ss:
Hancock County, }

Before the subscriber, the judge of the probate court within and for said county, on the 6th day of March, A. D. 1886, personally appeared John F. Hastings, adm'r of the estate of Joseph Hastings, late of said county, deceased, and, being duly qualified, he did deposè and say that the foregoing inventory is in all respects just and true; that it contains a true statement of all the estate and property of the said deceased which has come to the knowledge of said affiant, being assets, &c., and particularly of all moneys, bank bills, and other circulating medium belonging to the deceased, and of all just claims of the said deceased against the said affiant, and of all other persons, according to the best of his knowledge.

JOHN F. HASTINGS.

Subscribed in my presence and sworn to before me the day and year first above written.

GEO. W. MYERS,
Probate Judge.

342 Endorsed: Hancock county probate court. Inventory and appraisement of the estate of Joseph Hastings, deceased, late of Findlay t'w'p. Filed March 6, 1886. Geo. W. Myers, probate judge. Recorded in Record of Inventories of Hancock County, Ohio, vol. J, page 30.

343 *Executor's Accounts.*

Abraham Teatsorth, executor of the estate of James Teatsorth, in account with said estate, — account.

Said executor charges himself as follows:

1880.					
Nov.	13.	To cash rec'd of Sam'l Whisler			35 00
"	27.	" from proceeds of sale			11 00
Dec.	1.	" " Robert Shank for corn			9 00
"	3.	" " " for hay			10 00
"	8.	" " R. Littrick, clover seed			16 66
"	15.	" " R. Shank, hay			12 00
"	20.	" " " corn			8 50
1881.					
Feb'y	28.	" " D. George, rent for mill			58 20
Ap'l	5.	" " R. R. Hartman on sale of land			7,000 00
1882.					
Aug.	27.	" " S. Kantner, proceeds sale			22 50
"	"	" " J. Woolhetter, corn			8 00
"	"	" " G. H. Leonard, corn			4 00
"	"	" " J. M. Wolfe, corn			16 10
"	"	" " I. Teatsorth, one horse			10 00
"	"	" " G. Teatsorth, sundries			25 00
					7,245 96

And accountant claims credit for the following payments made in behalf of said estate:

1881.				
1. Ap'l	5.	Paid J. Hastings on notes	2,331 65	
1880.				
2. Nov.	20.	Paid G. W. Ballou & Co., per Hartman	2,000 00	
1881.				
3. Feb'y	5.	Paid J. Heck, voucher 3	643 00	
4. Ap'l	5.	Paid C. W. O'Neal, voucher 4	562 80	
5. Feb'y	6.	Paid F. Holsheimer, " 5	233 60	
1882.				
6. Ap'l	3.	Paid H. H. Dedaway, " 6	1,292 87	
1881.				
7. Feb'y	5.	Paid P. Taylor, " 7	800 00	
344		Amount bro't over	7,863 92	
1881.				
Dec.	18.	G. W. Ballou, voucher No. 8	160 80	
"	4.	" tax receipts, voucher No. 9	77 15	
1880.				
Nov.	5.	J. R. Clark, coffin, voucher No. 10	47 50	
"	29.	Probate judge's receipt, voucher 11	12 00	
1881.				
M'ch	13.	Paid Coons & Co., voucher 12	11 89	
1882.				
April	20.	Paid Dr. Orsterkin, vouch. 13	11 75	
"	22.	" L. & A. J. Corfman, voucher 14	10 50	
"	8.	" Dr. J. C. Tritch, voucher 15	10 22	
May	19.	" Philip Snyder, voucher 16	10 00	
1880.				
Dec.	2.	" F. H. Glessner, voucher 17	4 38	
1881.				
M'ch	3.	" E. P. Jones, voucher 18	3 00	
Feb'y	5.	" Heck & Co., voucher 19	2 83	
Jan'y	31.	" J. M. Huber, voucher 20	1 25	
		Executor percentage on first $1,000	60 00	
		" " " 4,000	160 00	
		" " " 3,216.39 at 2 per cent.	64 32	
				8,525 67
		Probate fee this acc't		7 00
				8,532 67
		Am't rec'd	7,245 96	
		" paid out	8,532 67	
		Adm'r has overpaid his acc't		1,286 71

Affidavit to Account.

THE STATE OF OHIO, } ss:
Hancock County, }

I, Abraham Teatsorth, executor of the estate of James Teatsorth, do make solemn oath that the within is a true and correct account of said estate, as I verily believe.

ABRAHAM TEATSORTH.

Sworn and subscribed to this 20 day of Nov., A. D. 1882, before me—

S. J. SIDDALL,
Probate Judge.

Endorsed: No. 37. County probate court. Abraham Teatsorth, executor on the estate of James Teatsorth, deceased. Partial account. Filed Nov. 20, 1882. Journal 7, page 238. Recorded in Book 14, page 206. S. J. Siddall, probate judge.

345 *Executor's Accounts.*

Abraham Teatsorth, executor of the will and the estate of James Teatsorth, deceased, in account with said estate.

Restatement of whole account.

This settlement is intended to be final until the death of the widow or the sale of the grist-mill.

Said executor charges himself as follows:

1880.				
Nov.	13.	To cash received of Samuel Whisler		35 00
"	27.	To cash from proceeds of sale		11 00
Dec.	1.	" cash from Robert Shank for corn		9 00
"	3.	" cash from Robert Shank for hay		10 00
"	8.	" cash from R. Littrick for clover seed		15 66
"	15.	" cash from R. Shank for hay		12 00
"	20.	" cash from R. Shank for corn		8 50
1881.				
Feb'y	28.	" cash from D. George, rent for mill		58 20
April	5.	" cash and notes of R. R. Hartman, sale of land		7,000 00
Aug.	27.	" cash of S. Cantner, proceeds of sale		22 50
"	"	" cash of J. Woolheater for corn		8 00
"	"	" cash of G. H. Lannort for corn		4 00
"	"	" cash of J. H. Wolfe for corn		16 10
"	"	" I. N. Teatsorth on horse		10 00
"	"	" G. Teatsorth for sundries		25 00

Said executor credits himself as follows:

1881.				
April	5.	By cash paid J. Hastings on note, voucher 1	1,008 00	
"	5.	By cash paid J. Hastings on note, " 2	925 33	
"	5.	By cash paid J. Hastings on note, " 3	273 54	
Dec.	1.	By cash paid J. Hastings, interest on note, voucher 4	11 01	
April	5.	By cash paid R. R. Hartman for G. W. Ballou & Co., voucher 5	2,000 00	
Feb'y	5.	By cash paid Jane Heck on judgment, voucher 6	643 00	
April	5.	By cash paid C. W. O'Neal on judgment, voucher 7	562 80	
		By cash paid Francis Holsheimer, voucher 8	449 60	
		By cash paid H. H. Didway on note, voucher 9	1,157 87	
			7,031 15	7,245 96

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	Amounts brought over	7,031 15	7,245 96
	By cash paid Geo. W. Ballou & Co., interest, voucher 10	80 00	
	" cash paid for taxes of 1880, voucher 11	62 46	
	" cash paid for taxes of 1880 on lots, voucher 12	19 69	
	" cash paid J. R. Clark, coffin, &c., " 13	47 50	
	" cash paid probate judge, costs, " 14	12 00	
	" cash paid Coons, Adams & Co. acc't, " 15	11 89	
	" cash paid Charles Orsterter acc't, " 16	11 75	
	" cash paid L. & A. J. Corsman acc't, " 17	10 50	
	" cash paid J. C. Fritch acc't, " 18	10 22	
	" cash paid Philip Snyder acc't, " 19	10 00	
	" cash paid Georgia Glessner acc't, " 20	4 38	

By cash paid E. B. Jones, interest,	voucher 21	3 00	
" cash paid Heck & Chamberlain acc't,	" 22	2 03	
" cash paid J. M. Huber acc't,	" 23	1 25	
" note and mortgage to J. F. Burket,	" 24	215 44	
" cash paid probate judge, costs & this acc't		12 00	
" commission of executor on $7,245.96		264 91	
			7,810 17
Overpaid by executor			564 21
Note of James Teatsorth to Abraham Teatsorth, dated June 3d, 1880, at six months, with 8 per cent. interest not paid, $500.00; total			654 47
			1,218 68

Statement.

Failing to find a purchaser for the grist-mill in said will named, and being pressed for settlement by cash or note secured by mortgage for the amount due J. F. Burket, I mortgaged said mill to him for the sum of $215.44 at one year, with eight per cent. interest, and should I be compelled to pay that mortgage before I sell the mill I will be entitled to the interest to be paid over and above the amount stated in this account. It is fully understood that the claim of J. F. Burket for $215.44 is not paid by the estate, and that the estate is held for the payment of the same, and should that note and mortgage be paid by the estate, then the amount so paid must be deducted from the $564.21 overpaid by me, as shown above; but if I pay said note and mortgage, then the full amount overpaid by me as above will be due to me from the estate, and in addition thereto all interest I may pay him on said note and mortgage.

347 *Affidavit to Account.*

THE STATE OF OHIO, } ss:
Hancock County, }

I, Abraham Teatsorth, executor of the estate and will of James Teatsorth, deceased, do make solemn oath that the within is a true and correct — of said estate, as I verily believe.

ABRAHAM TEATSORTH.

Sworn to and subscribed before me this 10 day of April, 1884.

HARLAN F. BURKET,
[SEAL.] *Notary Public.*

Endorsed: Hancock county probate court. Abraham Teatsorth, executor of the estate of James Teatsorth, deceased. Restatment of whole account. Filed April 11, A. D. 1884. Journal 8, page 129. Recorded in Book 15, page 138. S. J. Siddall, probate judge. J. F. Burket, attorney.

348 *Administrator's or Executor's Account.*

Abraham Teatsorth, executor of the estate and will of James Teatsorth, in account with said estate.

Final account.

Said executor charges himself as follows:

1885.			
May 19.	To amount for which mill was sold		1,850 00
	" interest on deferred payments		136 00
			1,986 00

Said executor credits himself as follows:

1884.			
April 10.	By amount overpaid at last account	564 21	
	" interest on same to date of May 19, 18-5, @ 8 %	50 02	
1885.			
May 20.	By cash paid probate judge, costs on sale of mill	66 45	
1887.			
Jan'y 13.	By cash paid Abe Teatsorth on note, with 8 % int.	764 66	
	By cash paid probate judge, this account	5 00	
	By cash paid J. F. Burket, this account	5 00	
	By compensation of executor on $1,986.00	39 72	
			1,495 06
	Balance in hands of executor for legatees		490 94

The notes taken from Isaac Teatsorth and Mary Teatsorth on sale of the mill have not yet been paid in full, but for the purpose of making final settlement said executor accounts for the full amount and interest and holds said notes to be by him hereafter collected as his own and asks the court to confirm said transaction and make the proper order in the case.

Affidavit to Account.

THE STATE OF OHIO, } ss.
Hancock County, }

I, Abraham Teatsorth, executor of the estate and will of James Teatsorth, deceased, do make solemn oath that the within is a true and correct account of said estate, as I verily believe.

ABRAHAM TEATSORTH.

Sworn to before me and signed in my presence this 13th day of January, A. D. 1887.

GEO. W. MYERS,
Probate Judge,
By WM. M. LOUTHER, *Deputy.*

349 Endorsed: Hancock county probate court. Abraham Teatsorth, executor of the estate of James Teatsorth, deceased. Final account. Filed Jan'y 13, A. D. 1887. Recorded in Book 16, page 397. Geo. W. Myers, probate judge. J. F. Burket, attorney.

350 $217.10. On or before the first day of April, A. D. 1879, for value rec'd, we or either — us promise to pay Joseph Hastings or order the sum of two hundred and seventeen dollars and ten cents, with eight per cent. interest from date, this note payable in legal-tender currency.

Witness our hands this fifth day of January, A. D. 1878.

JAMES TEATSORTH.
JAMES L. TEATSORTH.
ISAAC TEATSORTH.

(Endorsed:) April 5, 1881. Rec'd of A. Teatsorth, executor of J. Teatsorth, dec'd, the within claim in full. J. Hastings.

$800.00. On or before the first of April, A. D. 1879, for value rec'd, we or either of us promise to pay Joseph Hastings or order the sum of eight hundred dollars, with eight per cent. interest from date, this note payable in legal-tender currency.

Witness our hands this fifth day of January, A. D. 1878.

JAMES TEATSORTH.
JAMES L. TEATSORTH.
ISAAC TEATSORTH.

(Endorsed:) April 5, 1881. Rec'd the within note in full from A. Teatsorth, executor of J. Teatsorth, dec'd. J. Hastings.

$734.40. On or before the first day of April, A. D. 1879, for value rec'd, we or either of us promise to pay Joseph Hastings or order the sum of seven hundred and thirty-four dollars and forty cents, with eight per cent. interest from date, this note payable in legal-tender currency.

Witness our hands this fifth day of January, A. D. 1878.

JAMES TEATSORTH.
JAMES L. TEATSORTH.
ISAAC TEATSORTH.

(Endorsed:) April 5, 1881. Rec'd the within note in full from A. Teatsorth, executor of J. Teatsorth, dec'd. J. Hastings.

351 Know all men by these presents that we, Jared W. Dillman, as principal, and W. C. Watson, Jr., as surety, are held and firmly bound unto John F. Hastings and Philip J. Reinmund, as administrators of the estate of Joseph Hastings, deceased, in the sum of five hundred dollars; to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 11th day of September, in the year of our Lord one thousand eight hundred and eighty-eight.

Whereas the above-bounden Jared W. Dillman has appealed to the next Supreme Court of the United States from a decree of the circuit court of the United States for the northern district of Ohio, western division, bearing date the 29th day of June, A. D. 1888, in

a cause wherein the said Jared W. Dillman was complainant and the said John F. Hastings and Philip J. Reimmund, as administrators aforesaid, were respondents: Now, therefore, the condition of this obligation is such that if the above-named appellant, Jared W. Dillman, shall prosecute his appeal with effect and pay all such damages, costs, and expenses as shall be awarded against him as such appellant therein, then this obligation to be void; otherwise to remain in full force and effect.

(Signed) JARED W. DILLMAN. [SEAL.]
W. C. WATSON, JR. [SEAL.]

Sealed and delivered in presence of—
L. G. GRABER.
R. D. WATSON.

[Endorsed:] No. 529. In the circuit court of the United States for the northern district of Ohio. Jared W. Dillman *vs.* John F. Hastings *et al.* Copy appeal bond. Approved and filed September 25, 1888. M. Welker, judge.

352 The United States of America to John F. Hastings and Philip J. Reimund, administrators of the estate of Joseph Hastings, deceased, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to an allowance of appeal filed in the clerk's office of the circuit court of the United States for the northern district of Ohio, western division, wherein Jared W. Dillman is complainant and you are defendants in error, to show cause, if any there be, why the decree rendered in favor of the said plaintiff in error, as in the said appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Martin Welker, district judge and one of the judges of the said circuit court of the United States, this seventh day of September, in the year of our Lord one thousand eight hundred and eighty-eight.

M. WELKER.

353 [Endorsed:] No. 529. Citation. Filed Sep. 11, 1888. A. J. Ricks, clerk.

NORTHERN DISTRICT OF OHIO, *ss:*

On the 8th day of September, 1888, I made due service of the within writ by leaving a true and duly certified copy thereof at the usual place of abode of the within-named John F. Hastings in the hands of his wife, and by leaving a like copy at the usual place of abode of the within-named Philip J. Reimund in the hands of Margaret Alexander, the said Hastings and Reimund being adminis-

trators of the estate of Joseph Hastings, deceased, and were each absent from home and could not be found.

B. F. WADE, *U. S. Marshal*,
By JOHN J. HACKETT, *Deputy*.

Service	4 00
Copies	1 00
Actual expenses	4 70
	$9 70

354 *Certificate.*

THE UNITED STATES OF AMERICA, *Northern District of Ohio, Western Division*, } ss:

I, Augustus J. Ricks, clerk of the circuit court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court in the cause wherein Jared W. Dillman is complainant and John F. Hastings and Philip J. Reimund are the defendants, as the same appears from the files and record of said court now remaining in my custody.

Seal of the Circuit Court, North'n Dist. of Ohio.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at my office, in Toledo, in said district, on this 28th day of September, A. D. 1888, and of the Independence of the United States of America the 113th year.

AUGUSTUS J. RICKS, *Clerk*.

Endorsed on cover: Case No. 13,256. N. Ohio C. C. U. S. No. 201. Jared W. Dillman, appellant, *vs.* John F. Hastings and Philip J. Reimund, administrators of Joseph Hastings, deceased. Filed October 11, 1888.

FILED
MAR 8 1892
JAMES H. McKENNEY,
CLERK.

Case No. 13,526.

Supreme Court of the United States.

OCTOBER TERM, 1891.

Term No. 201.

JARED W. DILLMAN, Appellant,

vs.

JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of JOSEPH HASTINGS, Deceased.

BRIEF SUBMITTED BY

A. S. WORTHINGTON,
Solicitor for Appellant.

H. L. McQUEEN, PRINTER.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1891.

JARED W. DILLMAN, Appellant,
vs.
JOHN F. HASTINGS and PHILIP J. REIMUND, Administrators of the estate of JOSEPH HASTINGS, deceased.

Term No. 201.

BRIEF FOR APPELLANT.

Statement of the Case.

In the early part of the year 1875 Dr. Jared W. Dillman, a resident of the city of Philadelphia, in the State of Pennsylvania, was a surgeon in the Navy of the United States, in active duty. At that time Joseph Hastings, who had long been a friend of Dr. Dillman's, resided in the town of Findlay, Hancock county, Ohio, where he was engaged in business as a farmer and also, it seems, as a lender of money. From and including the month of March, 1875, to and including the month of May, 1881, Dr. Dillman sent to Mr. Hastings from time to time various sums of money to be by Hastings loaned out at interest for Dillman—Hastings being instructed and agreeing to re-invest the interest as collected in the same way. At first the money was invested at ten per cent. annual interest, but early in 1881 Hastings informed Dillman that the rate of interest was reduced to eight per cent. (148,159).

Hastings died on the 12th day of February, 1886. There had never been any complete statement of account

between Hastings and Dillman, but at various times Hastings sent to Dillman partial statements which showed that there was no difference between the two parties as to the amount or date of the respective remittances (124, 134).

Letters of administration on the estate of Hastings were issued to the appellees, John F. Hastings and Philip J. Reimund. John F. Hastings is the son of Joseph Hastings and Philip J. Reimund is his son-in-law.

After some futile efforts to obtain a settlement with the administrators, Dr. Dillman, on the 8th day of November, 1886, filed a bill in equity against the administrators in the Circuit Court for the Northern District of Ohio, Western Division, setting forth more in detail than above stated his dealings with the decedent, and asking for an account (1–4). He filed with his bill a statement of the account as he understood it, in which statement he charged the estate with the amount of each of the remittances in question and with interest thereon, with annual rests at the rate of ten per cent. until April 1, 1881, and thereafter at eight per cent. (5–7).

The administrators answered, pleading in substance ignorance of the transactions or agreements between Hastings and Dillman, except that they admitted that at the time of his death Hastings had of the money of Dillman the sum of $1,875. They also set up the statute of limitations as a defence to most of the account (10–13). Replication was duly made to this answer (14). Depositions were taken by both parties, and on January 10, 1888, by consent of parties the cause was referred to Augustus J. Ricks (who was then the Clerk of the Court in which the case was pending and who has since become a District Judge), who was vested with the power of a master in chancery (23).

In April, 1888, the master filed his report, finding due the complainant the sum of $14,394.50, which sum he

allowed the complainant, with interest at the rate of six per cent. from the 12th day of February, 1886,—the date of Hastings' death (23–31).

The complainant's counsel filed three exceptions to the master's report (34). The first exception was as to the allowance of interest at six per cent. instead of eight per cent., after the death of Hastings, and to the failure to allow such interest with annual rests. The second exception was to the allowance by the Auditor of the sum of $600 as compensation for Hastings' services in loaning the complainant's money and managing the investments for him prior to April, 1881. The third exception relates to a matter which is hardly the ground for a formal exception—a manifest error made by the master in referring to the contents of the original bill, but which error did not in any way affect unfavorably to the complainant the master's report upon the matters referred to in the exception.

The defendants filed ten exceptions to the master's report (32, 33). As most of these were overruled by the court and the defendants have not appealed, it is unnecessary to refer to them in detail. Those of them which were sustained by the court and which are involved in the present appeal will be referred to in that portion of this brief which deals with the argument of the case.

The case was heard on the master's report and the exceptions thereto. By the decree which was thereupon made the court overruled all the complainant's exceptions and all those filed by the defendants except (1) those relating to the manner in which the master had computed interest; (2) an exception relating to certain credits claimed on account of taxes alleged to have been paid by Hastings which the master had disallowed, and (3) one relating to the alleged insufficiency of the compensation allowed Hastings for his services. After correcting these

supposed errors in the master's account, the court in other respects confirmed the report, and finds that at the time of the decree—June 29, 1888—there was due the complainant the sum of $12,172.59 with interest from the first day of the term—June 5, 1888—and this sum the administrators were decreed to pay and execution directed to issue (35).

One month later—July 28, 1888—an appeal was allowed by the District Judge (36). A citation was duly issued and served, and an appeal-bond approved and filed (223, 224.)

The record was filed in this court October 11, 1888 (225).

The following calculation will show the amount (excluding for the present purpose any compounding of interest) involved in the appeal at the date of the decree below, to wit, June 29, 1888:

Amount allowed by master		$14,394.50
Interest thereon (as allowed by master) at 6 per cent. from Feb. 12, 1886, to June 29, 1888		2,056.10
Amount involved in complainant's first exception:		
Two per cent. on $14,394.50, from Feb. 12, 1886, to June 29, 1888		685.57
Amount involved in complainant's second exception to the Master's report		600.00
Together with interest thereon at 8 per cent. from Feb. 12, 1886, to June 29, 1888		144.27.
Total		$17,851.54
Amount allowed by the court	$12,172.59	
Interest at 6 per cent. from June 5 to June 29	48.49	
		12,221,08
Difference		$5,629.96

Assignments of Error.

1. The court erred in overruling the complainants' first exception to the master's report, and should instead have decreed that the complainant was entitled to interest at the rate of 8 per cent., instead of at the rate of 6 per cent. as found by the master, on the amount found to be due him at the time of Hastings' death; and should further have allowed annual rests in the calculation of the interest.

2. The court erred in overruling the complainant's second exception to the master's report and in allowing the defendants the sum of $1,080 for compensation for services rendered by the decedent. No compensation should have been allowed.

3. The court erred in finding that the master erred in his method of computing interest on the amounts in his report set forth, and should have confirmed the master's report in that regard.

4. The court erred in overruling that part of the master's report which disallowed any deductions on account of taxes alleged to have been paid by said Hastings, and should have refused to allow to the administrators of Hastings any credit on account of taxes supposed to have been paid by the decedent.

5. The court erred in not allowing the complainant interest from February 12, 1886 (the date of Hasting's death) on the amount due from said Hastings to the complainant at that time, and in fixing the first day of the term at which the decree was rendered—June 5, 1888—as the date from which such interest should be computed.

6. The court erred in reducing from $14,394.50, the amount found due by the master, to $12,172.59, the principal amount due from the estate of Joseph Hastings to Dr. Dillman at the date of the former's death.

ARGUMENT.

I.

As to Allowance of Interest after the Death of Hastings.

This subject involves the consideration of the first and fifth assignments of error.

The master allowed interest at six per cent. after Hastings' death (31). By his first exception the complainant claimed that this interest should have been allowed at the rate of eight per cent. with annual rests (34). The court allowed no interest at all from the date of Hastings' death, February 12, 1886, until June 5, 1888, and for the twenty-four days between June 5 and the date of the decree allowed interest without expressly specifying the rate—leaving the rate of interest to stand at six per cent. by implication from that part of the decree which confirmed the master's report generally except where otherwise specified (35).

The principal error here consists in this: that the defendants had not excepted to the allowance of interest after Hasting's death, and the court therefore should not have interfered with that part of the master's report. There were ten exceptions filed by the defendant (32–33). But they will be scanned in vain for anything that may by implication even be considered to be an objection to the allowance of interest after the death of the decedent on the amount found due Dillman.

After all the testimony in the case had been taken, the issues in the case were referred to the special master by consent of the parties (23) with authority to report findings of law as well as of fact, and to state an account between the parties—his experience in matters of accounting being given as a reason for his selection. It

was a manifest error to change the award made by a referee so selected in this very material respect, and adversely to the complainant, when no exception had been taken to the award on this ground by the defendants (Kimberly *vs.* Arms, 129 U. S., 524).

The conclusions of the master in every case on the weight of conflicting testimony have every reasonable presumption in their favor (Tilghman *vs.* Proctor, 125 U. S., 136).

Interest should have been allowed at the rate of eight per cent. That was the rate at which the complainant's money in the hands of Hastings had been invested at the time of the latter's death. And Hastings had been particularly instructed by Dillman to return to the latter any of his money that could not be securely loaned so as to net Dillman eight per cent. (Master's Report 26, 27; testimony 148, 159). No evidence (except as stated in the next paragraph) was introduced tending to show that any of the investments of the decedent at the time of Hastings' death bearing eight per cent. interest had been paid after his death, and as shown below Hastings was using much of Dillman's money for his own purposes instead of investing it, and he and his estate should be charged with the agreed rate of interest.

In the one instance in which the evidence shows what the administrators did about collecting Dillman's money from those to whom it had been loaned, it appears that they received the principal sum lent together with compound interest at the rate of eight per cent. (41, 42, 43, 44).

II.

As to the Allowance of Compensation for Hastings' Services.

The second assignment of error relates to this matter. The master allowed $600 compensation (31). The

complainant excepted and claimed that no compensation should have been allowed (34). The defendants excepted and claimed that there should be allowed as compensation "a sum equal to the excess of interest over six per cent." (33). The court allowed as compensation $1,080 (35).

Here it becomes necessary to consider somewhat in detail the correspondence between Dillman and Hastings, which began in the spring of 1875, and continued until Hastings died. Most of this correspondence seems to have been preserved and is found in the record. In the record, however, these letters are found without any regard to the order in which they were written, and it is therefore somewhat difficult to read the correspondence understandingly. For this reason a table has been prepared and is appended to this brief (p. 17) giving the different letters in the order of their respective dates. To those of the letters which refer to the financial transactions between Dillman and Hastings, the letter "F" has been affixed on this list, and where the contents of the letter are deemed by the complainant to be of peculiar importance the letter "*F*" is italicized. It is impossible to read these letters without seeing that a pecuniary compensation moving from Dillman to Hastings was never thought of by either the complainant or Hastings. The letters from Dillman to Hastings of May 20, 1881 (148), and April 2, 1881 (159), are especially convincing in this respect. In those letters Dillman distinctly tells Hastings that any of his money which can not be securely invested so as to net him eight per cent. is to be returned. So, in his letter of May 3, 1879 (143), Dillman mentions that the investments are *netting* him ten per cent. annually.

While there was no direct evidence on the subject the inference is plain that whatever compensation of a pecuniary nature Hastings was to get for investing the money

he was to get in the usual way from the borrower (see Dillman's letter to W. C. Watson, p. 95). The court will no doubt take notice of the fact that the custom in such transactions is that he who borrows from an agent must, out of what he borrows, pay the agent for his trouble. (See testimony of the defendant's witness, Carlin, on this subject, p. 170). The master finds from the letter of May 20, 1881 (which he refers to as of date May 23), that this was clearly the understanding between Hastings and Dillman after that date (27, 31). But it is clear, and indeed the master so finds (31), that this letter shows almost as clearly what the understanding had been before as what it was after that letter was written.

There is a consideration of which the master makes no mention that is important in this connection. It will be seen from the correspondence that Dillman was constantly rendering services to Hastings. The latter appears to have been ailing most of the time, and we find him constantly acquainting Dr. Dillman with his physical troubles and calling on the latter for medical advice, which advice is as constantly given. In the list of letters appended to this brief those which refer to this matter of medical advice are marked "M"—those which are of especial interest being indicated by italicizing the "*M*".

So during the entire period Dr. Dillman seems to have furnished Hastings with reading matter. Many of the letters contain some allusion to papers sent by Dillman, or received by Hastings.

Again, Hastings became interested in the affairs of a number of persons who thought they had a large fortune belonging to them which was deposited in some mysterious manner or place in the neighborhood of Philadelphia. Hastings evidently gave credence to the claims of these persons and became their agent and expected to pursue the matter with profit to himself. He acquainted

Dillman fully with his views and expectations in this regard and besought Dillman to obtain the information for him at various places. And this Dillman did, and it is apparent from his letters that he went to a great deal of trouble on some of these occasions—first, to get the information, and second, to write fully to Hastings about it (129, 146, 147, 131, 160, 132, 147, 148, 133, 121).

And this is just as good a place as any to show that the conduct of Hastings first, and of his administrators afterwards, was not such as to entitle the administrators to any great consideration in the statement of this account.

In the first place the evidence discloses the fact that while Dillman supposed and was led by Hastings to believe that the latter was investing the money of the former on good security, and keeping it separate from other funds, yet, as a matter of fact, Hastings was himself using a considerable portion of this fund in his own business and for his own purposes. The administrators have shown that when Hastings died, the notes and other evidence of indebtedness which he held amounted to only $8,395.52 (214–217). There is no escape from the conclusion that he, the trusted agent of the complainant, had been using the rest of Dr. Dillman's money in his own schemes.

In several of Hasting's letters to Dillman the former refers to a book in which he kept an account of his investments for Dillman (126, 134, 136).

Immediately after the death of Hastings, and while Dr. Dillman was at Findlay, this book or memorandum was seen and its identity established by witnesses (196, 197, 208). The defendants were especially notified to produce this book (116). But it never was produced. Indeed, both the defendants, although they lived at Findlay and confess themselves having a general knowledge of the business

and affairs of the decedent (11), carefully avoided going upon the stand. Considering their relation to the decedent and interest in the estate, this is a consideration of the first importance, especially in view of Dr. Dillman's uncontradicted testimony that three days after Joseph Hastings' death, John F. Hastings went over the account with Dr. Dillman and admitted that the balance in the latter's favor was then $15,400 (209).

The master's observations on this point leave little to be said on the subject (27, 28).

On several occasions within a few weeks after the death of Hastings, Dr. Dillman asked the administrators to produce his letters to Hastings and lay them down on a table with Hastings' letters to Dillman, and on the basis of this correspondence to settle the account between them—and even offered to throw off $1,000 from the amount which might be found to be due him in this way (91, 107, 113, 114, 196). This offer was rejected, the defendant, John F. Hastings, saying the administrators could gain $3,000 by a law suit, and would have only $300 to pay their lawyer (91). That the defendants were contesting the claims of Dillman in anything but the proper spirit considering the relations of Hastings as trustee to Dillman is further indicated by the fact that they required many days to be wasted (37–74) in taking testimony to establish the handwriting of Joseph Hastings to the latter's letters, which Dillman had produced and put in evidence. They took no evidence to rebut this testimony, and it is manifest from the letters of Dillman which were in their hands all the time, that the genuineness of the letters from Hastings to Dillman which had been put in evidence was undoubted.

In their sworn answer the defendants say—"They are not informed, save by his bill, whether said complainant ever requested said Hastings to make him a statement of

loans, interest, etc." Yet they then had in their possession the letters from Dillman to Hastings requesting such a statement. (See, for instance, letters of April 2, 1881, p. 159; December 21, 1885, p. 160; and January 7, 1886, p. 161).

III.

As to the Method of Computing Interest Prior to Hastings' Death.

This involves the third and sixth assignments of error.

The master allowed interest with annual rests at ten per cent. on each remittance from the date thereof to April 1, 1881, and from April 1, 1881, until February 12, 1886, the date of Hastings' death, at eight per cent. with annual rests. The complainant was satisfied with this and took no exception. Among the ten exceptions filed by the defendant are four which may be considered as bearing on the subject, viz., the third, eighth, ninth and tenth (32–33). By the third exception it was claimed that interest should have been allowed only at the rate of six per cent. The eighth urged that the master allowed no rest "for compensation [of Hastings' for services rendered] or interest thereon." The ninth insists that Hastings should have been allowed a reasonable time after receiving each remittance "in which to invest and re-invest the same." The tenth claims that there was no arrangement or understanding that Hastings was to increase the fund "by a rate of interest at ten per cent. compounded annually or by eight per cent compounded annually."

In the decree disposing of the exceptions the court merely finds "that the master erred in the method of computing interest on the amounts in his report set forth." The decree does not inform us, nor does anything in the record, in what respect the court held that the master

erred in his method of computing interest. Application has been made by the undersigned to the clerk of the court below for a copy of the opinion of Judge Jackson in this case and the clerk replies that no written opinion was ever filed in the case. The author of this brief was not present nor engaged in the case until it came to this court, so that he is wholly unable to throw any light on this subject.

The master found that there was due the complainant before deducting the $600 which he allowed for compensation $14,994.50 (31). The court allowed $1,080 as compensation, and for taxes $509.72 (189), and found the amount due to be $12,172.59, thus showing that what the court found to be the indebtedness before deducting any sum for compensation or taxes was $13,762,22. The difference between $14,994.50 and $13,252.59 is $1,232.28.

Consequently this is the amount by which the court found that the master erred on account of his method of computing interest.

We are left to surmise how this amount is arrived at. It could not have been reached by sustaining the defendant's third or tenth exceptions, because that would have reduced the rate of interest to six per cent. for the whole period and would have done away with what is called "the compounding," and either of these changes would have resulted in a much greater difference than $1,232.28. Nor can the difference be sustained by supposing that the eighth exception was sustained, because the interest there claimed on the amount allowed for compensation would not reach or approximate the sum of $1,232.28.

The ninth exception of the defendants remains to be considered. It objected that the master had charged Hastings with interest from the day he received each remittance, whereas a reasonable time should have been allowed in which to invest and re-invest the same. It is

possible that the court fixed some arbitrary period after each remittance, within which no interest should be charged and so arrived at the result under consideration. On this subject it is considered sufficient to refer to what the master says in his report (28) and to the letters which he quotes (26), and to refer further to Dillman's letters to Hastings, in which the former from time to time advised Hastings that Dillman was computing interest from the date of each remittance (135, 161), coupled with the fact that in none of Hastings' letters to Dillman is any objection made to this course.

IV.

As to the Amount Allowed for Taxes.

On this subject the master says "The proof shows that Hastings acted as agent for others in loaning money. It does not appear for whom these taxes were paid. It is clear that under the laws of Ohio the complainant was not liable to pay taxes on the funds loaned for him by his agent. If that agent were before the court with a full disclosure of his dealings and could show that under a mistake of law he had honestly paid taxes for complainant the master would consider such a claim with greater favor. As the proof now stands the master is of the opinion and so reports that no credit should be given for taxes for none were legally chargeable against the complainant" (31).

The defendants by their sixth exception objected to this part of the report, but they do not state in the exception expressly or by reference to the testimony what amount they claim should have been allowed on this account (33).

The court decreed "that the taxes set out in the evidence in the case should have been allowed the respondents" (35).

A list of the taxes in question will be found on page 189 of the record. They amount to $509.72.

A glance at this list will show the absurdity of the claim of the defendants to a credit for these taxes. The payments begin in 1876 and terminate in 1885. The first payment made in November, 1876, is $25.44, and there is a gradual, though not a regular, increase in the amounts up to the payment made in December, 1880, when the amount paid is $34.39, and from that time there is a gradual, but not regular, decrease until the last payment, made in 1885, which is for $22.40. The lowest payment made is in July, 1884, being $19.21, and the highest, as above stated, is in December, 1880, $34.39.

Now if these had been taxes on Dr. Dillman's money there would have been a small amount paid the first year and a gradual and regular increase to the end. When the payment of $25.44 was made, in November, 1876, Hastings had in his hands of Dillman's money (excluding interest) only the sum of $3,799 (39). Yet the taxes for that year paid by Hastings and allowed by the court are almost as large as any payment made during the entire period of nine years. By 1885 the money in Hastings' hands belonging to Dillman had increased from less than $4,000 to at least $12,000. Yet the taxes paid in 1885 are less than the taxes paid in 1876.

That Hastings during this period had plenty of money of his own the defendants have been careful to prove (191, 192, 193). They also prove by their witness, Margaret Alexander, that Hastings received money from other persons and put it out at interest as agent during this period, and took securities therefor in his own name just as he did when dealing with Dr. Dillman's money (163–166). Hastings invested in this way $3,000 for this one witness (165).

These things, with the utter absence of proof tending to

show that the taxes in question or any part thereof were actually paid on account of the securities or money belonging to Dr. Dillman in the hands of Hastings, not only show the error of the court below in this regard but make it inexplicable how the court could have arrived at such a conclusion.

But even if Hastings had paid these taxes, he is not entitled to a credit therefor. The master on this point observes (31): "It is clear that under the laws of Ohio complainant was not liable to pay taxes on account of the funds loaned for him by his agent."

And whatever the laws of Ohio may be on the subject, this court has decided that a non-resident of a State can not be taxed therein upon securities owned by him, the payment of which is secured by mortgage upon lands in the State. (Railroad Co. *vs.* Pennsylvania, 15 Wall., 300, and see Cooley on taxation 14, 16.)

Even if Dr. Dillman had been a resident of Ohio, with his securities in the hands of Hastings as his agent, the latter would have been required by the laws of Ohio to list them separately.

"Every person required to list property on behalf of others * * * shall list it separately from his own, specifying in each case the name of the person, company, or corporation to whom it belongs."

Act of April 8, 1865, Vol. 62, Ohio Sessions Laws, p. 106.

Giauque's Rev. Stat. of Ohio (1890), Vol. I, Sec. 2735.

Upon the whole it is submitted that the decree below, should be reversed, and the case remanded with instruc-

See page 19 Brief

tions to the court below to enter a decree in favor of the complainant for the sum of $14,994.50 (31), with interest thereon at the rate of eight per cent. per annum from the 12th day of February, 1886, with annual rests.

A. S. WORTHINGTON,
Solicitor for Appellant.

List of Letters.

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1876.
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1878.
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October 12..... ....Dillman to Hastings..... " 144
1879.
October 21.....Hastings to Dillman..... " 129 F
November 26..... " " ..... " 130 F
December 3.....Dillman to Hastings..... " 145
December 15..... " " ..... " 145
December 22. .... " " ..... " 145
December 25.....Hastings to Dillman..... " 130
1880.
March 5.....Dillman to Hastings..... " 146
1881.
March 22.....Dillman to Hastings..... " 147 M
March 30 .....Hastings to Dillman..... " 131
April 2 .....Dillman to Hastings..... " 159 *F*
May 17.....Hastings to Dillman..... " 132 F M
May 20.....Dillman to Hastings..... " 147 *F*
May 30.....Hastings to Dillman..... " 132
1882.
November 4.....Hastings to Dillman..... " 133
November 25.....Dillman to Hastings..... " 149
1883.
April 27.....Hastings to Dillman..... " 134
1884.
March 4.....Hastings to Dillman..... " 121
June 21..... " " ..... " 121
October 12.....Dillman to Hastings..... " 150
October 17.....Hastings to Dillman..... " 120
October 30.....Dillman to Hastings..... " 150
1885.
January 26.....Dillman to Hastings..... " 152 M
April 21..... " " ..... " 153

May 7	Hastings to Dillman	Page 117	*M*
May 22	Dillman to Hastings	" 154	*M*
July 16	Hastings to Dillman	" 122	*M*
October 5	Dillman to Hastings	" 157	*M*
November 21	" "	" 158	*M*
December 21	" "	" 160	*F*
December 28	Hastings to Dillman	" 134	*F*
1886.			
January 4	Dillman to Hastings	" 160	
January 5	Hastings to Dillman	" 134	*F*
January 7	Dillman to Hastings	" 161	*F*
January 14	" "	" 162	
February 2	" "	" 161	
December 6	" "	" 152	

There are several clerical errors in the computation of the master which will increase several hundred dollars the amount due complainant at date of decree below and which the Court below should be authorized to correct. Thus, the $500 remitted January 12, 1878, (134, 135) is by mistake credited as of July 12, 1878 (29). So there is an error of $10 against the complainant in addition (29, 30) and an error in calculating interest on the $300 received by Hastings on May 21, 1880 (30).